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Report of the United Nations High Commissioner for Human Rights on the Office in Colombia

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List of abbreviations

ACCU	Peasant Self-Defence Groups, Córdova and Urabá
AUC	United Self-Defence Groups of Colombia
CCA	Common Country Assessment
CODHES	Consultoría para los Derechos Humanos y el Desplazamiento (Advisory Office for Human Rights and Displacement)
CTI	Technical Investigation Unit of the Office of the Procurator-General
CUT	Trade Union Confederation
DANE	National Administrative Statistics Department
DNP	National Planning Department
ELN	National Liberation Army
EPL	Patriotic Liberation Army
FARC	Revolutionary Armed Forces of Colombia
FASOL	Solidarity Fund between German Judges and Colombian Judges Victims of Violence - Judicial Branch
GDP	Gross domestic product
IACHR	Inter-American Commission on Human Rights
ICBF	Colombian Family Welfare Institute
ICRC	International Committee of the Red Cross (Colombia)
IDHC	Human Development Report for Colombia
ILO	International Labour Organization
INPEC	National Penitentiary and Prison Institute
NGO	Non-governmental organization
PAHO	Pan-American Health Organization
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
USO	Workers' Trade Union

INTRODUCTION

1. The Commission on Human Rights has been following the human rights situation in Colombia with concern for several years. Thus, in 1996, 1997 and 1998, statements were made by the Chairman of the Commission indicating concern about the situation of endemic violence in Colombia, drawing attention to serious human rights problems and recognizing the efforts that the Government was making in the field of human rights. In 1996, the Commission on Human Rights requested the Office of the United Nations High Commissioner for Human Rights to establish an office in Colombia pursuant to the invitation by the Government of Colombia.

2. The Office of the United Nations High Commissioner for Human Rights in Colombia was established on 26 November 1996 under an agreement signed by the then Minister for Foreign Affairs of Colombia and the then United Nations High Commissioner for Human Rights. Under the terms of that agreement, the Office is to monitor the human rights situation in order to advise the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in the country and to enable the High Commissioner to submit analytical reports to the Commission on Human Rights.

3. At the fifty-fourth session of the Commission on Human Rights (1998), its Chairman stated that the Commission "considers the work the Office has been carrying out to promote respect for human rights to be of the greatest importance, as it may help promote reconciliation among Colombians and the search for peace. It is of the opinion that the Office is performing a vital role in bringing the human rights situation in Colombia into focus". It also "requests the High Commissioner for Human Rights to submit a detailed progress report to it at its fifty-fifth session containing the Office's analysis of the human rights situation in Colombia, in accordance with the provisions of the agreement between the Government of Colombia and the High Commissioner on the operation of the Permanent Office in Bogotá".

4. The agreement, which was originally intended for a period of 17 months, was extended, by an exchange of letters, until April 2000. In March 1998, an additional agreement was signed, increasing the number of human rights officers to 12 and expressly providing for the submission of confidential reports to member countries, international organizations and the International Committee of the Red Cross (ICRC).

5. The Office in Colombia has been working uninterruptedly for nearly two years with the Colombian authorities, national and foreign non-governmental organizations, representatives of civil society, ICRC and United Nations agencies for the purpose not only of preventing and reporting human rights violations, but also of providing specific solutions designed to improve the human rights situation. As its mandate indicates, the Office has made the information it has collected in connection with its activities available to the various United Nations mechanisms. It is also monitoring compliance with the recommendations of human rights organizations by making specific recommendations for their implementation.

6. The present report deals with the period between January and December 1998.

I. ACTIVITIES OF THE OFFICE

7. In order to fulfil the broad mandate contained in the agreement with the Government of Colombia, the Office has undertaken a number of related activities. In view of the limited resources available, it has had to make good use of them and to prioritize areas of action. The contacts and networks established to obtain reliable information on the human rights situation have been of fundamental importance in helping to channel assistance. In this connection, the Office held discussions with the competent government bodies, civilian and military authorities, organizations of civil society and individuals, members of the diplomatic corps, international organizations, agencies of the United Nations system and ICRC.

8. In carrying out its monitoring functions, the Office has continued to receive complaints from individuals, non-governmental organizations and government agencies. These complaints were received at the Bogotá Office and during many trips to various parts of the country. Following verification, many of them were transmitted to the Government for the necessary action, in accordance with the agreement. From January to November 1998, altogether 882 complaints were received, 747 of which were accepted, while another 155 were considered inadmissible. Of 482 complaints relating to incidents which occurred in 1998, the majority were complaints of violations of the right to life. It should be pointed out, however, that the number of cases to which the complaints received by the Office relates is far from reflecting the real seriousness of the situation in Colombia with regard to violations of human rights and breaches of international humanitarian law.

9. In an effort to help prevent human rights violations, the Office also transmitted information to the Government on massacres which had been reported. The Office took part in the working group on the investigation and prevention of massacres, which is being coordinated by the Office of the People's Advocate and whose aim is specifically to prevent massacres and to alert the authorities responsible for public security. Unfortunately, the transmission of this information has not led to effective action and the massacres have continued to go unpunished.

10. In view of the magnitude and intensification of displacement in Colombia, the Office has made considerable efforts to monitor and follow up the situation by communicating its concerns to the Government and taking preventive and protection measures for displaced persons. Together with various United Nations agencies, the Office is also taking part in an inter-agency working group on displacement and is encouraging the implementation of early warning systems. In this connection, the Office has taken part in round tables, at which displaced persons and the Government have been represented, in order to monitor the implementation of agreements reached. It has held many working meetings with NGOs, groups of displaced persons and cooperation agencies, at which possible prevention and protection measures were analysed.

11. The most relevant activities carried out by the Office as part of its advisory functions related to the follow-up of the bills on the reform of the Military Penal Code and on enforced disappearance. In cooperation with NGOs, it took part in round tables to study these bills in depth. It has also provided advice and sponsored a project for the design and implementation of a new teaching module for human rights training for law enforcement officials, which has the support of UNDP (United Nations Development Programme).

12. Many NGOs and organizations of civil society have received support and advice from the Office for the formulation and implementation of projects, particularly in the area of assistance to displaced persons. Advice was also given to the NGO which represents the families of the victims of the violent incidents in Trujillo, a case which is being settled amicably in connection with case No. 11.007 being heard by the Inter-American Commission on Human Rights (IACHR) as a result of the 1989-1990 massacre. The Office also provided advisory services to civil society on the topics of human rights and peace, which are of particular significance at the present time.

13. The Office continued to take part in the work of the Commission for Analysis and Advice on the Implementation of the Recommendations of International Human Rights Bodies (1290 Commission), in which it put forward the point of view of United Nations bodies and special mechanisms, as well as its own comments and recommendations on military justice, regional justice, enforced disappearances, forced displacement, vigilante and private security services, the phenomenon of paramilitarism and the situation of human rights advocates, inter alia.

14. The Office took part in forums, seminars, conferences, round tables, working meetings and workshops on topics related to the protection of human rights, international humanitarian law and peace and development intended for broad sectors of civil society and various government bodies.

15. The cooperation projects promoted by the Office in 1998 involved giving support to the Technical Investigation Unit of the Office of the Procurator-General by providing two months of financing for two experts from the Argentine Forensic Anthropology Team, who took part in and worked on the exhumation and laboratory analysis of the remains of the unidentified victims of the events which occurred on 6 and 7 November 1985 at the Law Courts of the city of Bogotá.

16. In accordance with the "additional agreement on reports and the number of professionals in the Office", concluded in March 1998 between the Government of Colombia and the Office of the High Commissioner, the Colombia Office has been submitting a monthly activity report containing the relevant comments of the Government of Colombia.

17. The Colombia Office issued 17 public statements and gave some 30 interviews to national and foreign media.

18. In 1999, the Office hopes to increase its technical cooperation activities in order to provide support for projects to promote and protect human rights at the national level. The cooperation of the authorities, national institutions, non-governmental organizations and Colombians in

general will be essential. The cooperation of the international community will also be sought in order to carry out specific projects, which not only benefit Colombian society directly, but also give it the necessary tools for its development.

II. VISIT BY THE HIGH COMMISSIONER TO COLOMBIA

19. The High Commissioner for Human Rights visited Colombia from 20 to 22 October 1998. The visit had three objectives: (a) to visit the Office in Colombia, (b) to hold talks with the authorities, local and international non-governmental organizations, United Nations agencies in Colombia, ICRC and the diplomatic corps, and (c) to open two seminars, one on the administration of justice in the Andean region, and the other on the protection of human rights advocates. During the first seminar, a memorandum of understanding was signed with the Andean Commission of Jurists to broaden activities for the promotion of human rights.

20. During the three days the High Commissioner spent in Bogotá, she held working meetings with the President of the Republic, the Vice-President, who is in charge of human rights, the Minister for Foreign Affairs, the Minister of Defence, the High Commissioner for Peace, the Procurator-General and the Deputy Procurator-General, the Attorney-General, the People's Advocate, the President of the Supreme Judicial Council and the President of the Senate.

21. During all these meetings, the High Commissioner had an opportunity to express concern about serious human rights problems and, in particular, about the serious situation of displaced persons, the existence and activities of paramilitary groups, the precarious situation of human rights advocates, irregularities in the system of regional and military justice, the delay in the adoption of the Military Penal Code and the bill criminalizing enforced disappearance, and the need to ratify the treaty establishing the International Criminal Court. The High Commissioner reminded the Government of Colombia that specific recommendations on each of these questions had been prepared by various United Nations mechanisms and that their implementation would help improve the human rights situation.

22. Particular emphasis was placed on the need for the adoption of a human rights plan of action, in accordance with what was decided at the 1993 Vienna Conference on Human Rights, in which Colombia took part. Although the importance of the peace efforts being made by the Government of Colombia was recognized, it was pointed out that peace cannot be dissociated from the problem of human rights and the right to development. It was suggested that the question of human rights and the right to development should be part of the agreements reached during the peace negotiations. The Colombia Office's cooperation was offered for the formulation of the plan of action. The Government of Colombia was very receptive to this proposal.

23. During the High Commissioner's visit, she also held meetings with representatives of local and international non-governmental organizations in Colombia, representatives of trade unions, representatives of demobilized guerrilla groups and representatives of civil society (Mandate for Peace and National Peace Commission), at which she had an opportunity to hear their concerns and requests, which were duly transmitted to the Colombian

authorities. During her meetings with the Colombian authorities, particularly with the President, the Minister of Defence and the Attorney-General, the High Commissioner requested that measures of protection for persons at risk should be strengthened and emphasized the need for public support for non-governmental organizations working in the field of human rights. She also requested that progress should be made on the review of the reports prepared by army intelligence Brigade XX, now being conducted by the Attorney-General.

24. The High Commissioner had working meetings with United Nations agencies, the World Bank and representatives of the diplomatic corps accredited in Colombia, in which they all expressed support for the work of the Colombia Office. Such support is fundamentally important, since it will enable the Office to carry out its activities pursuant to its mandate, thereby avoiding duplication of effort and contributing wherever necessary.

25. During her visit, the High Commissioner witnessed the atmosphere of violence in which people in Colombia live. Only a few hours after she arrived, she was told about the Machuca massacre, in which about 70 persons, including women and children, died in an attack by members of the National Liberation Army (ELN) on a pipeline in the north-western part of the country. On the day after the High Commissioner made a statement at a seminar in which various human rights organizations from the American continent took part, she was informed that there had been a bomb threat by unknown persons. She went to the place where the seminar was being held and, in the presence of the press, condemned that act of intimidation. A third unfortunate event was the murder of trade union leader Jorge Ortega by unknown persons in front of his house in Bogotá, just when a workers' strike had been called. Once again, the High Commissioner thought it would be appropriate to go to the trade union office to express her condolences and condemn the murder. She was warmly received by the workers and representatives of the church and non-governmental organizations who were present, who told her how precarious the security situation was.

26. The visit to Colombia was positive because it enabled the High Commissioner to take a first-hand look at the situation in the country and to hold useful conversations with national and international personalities, thus opening up and strengthening channels of communication and coordination and strengthening ties of cooperation. It also enabled her to become acquainted with the activities of the Colombia Office on the spot, witness the untiring efforts its staff are making, find out what its limitations and frustrations are in such an overwhelming situation and confirm the need to support them even more in their work. She transmitted her concerns to the Government and obtained an undertaking from it to give human rights the attention which they deserve and which Colombia needs. The High Commissioner thanked the Government of Colombia for the support it had given her during her short but fruitful stay, as well as for its receptive attitude to her messages.

III. NATIONAL CONTEXT

27. The Republic of Colombia is constitutionally defined as a unitary, decentralized and autonomous State, which has a republican system of government and whose legal and political organization is based on respect for human dignity. Power in Colombia is exercised by three branches: the

legislature, the executive and the judiciary. The military forces and the national police force make up the security forces of the Colombian State. Although the national police force is constitutionally defined as a civilian body, its members are, according to the Constitution, subject to the same military criminal jurisdiction as members of the Army, the Air Force and the Navy (see document E/CN.4/1998/16).

28. There were two major political issues in 1998: the elections and the efforts by the Government and civil society to establish a dialogue with the armed opposition groups on peace, leading to the definitive cessation of the internal armed conflict that has been afflicting the country for over 40 years.

29. Elections to renew the Colombian Congress were held on 8 March 1998 in a relatively calm atmosphere, although isolated acts of violence did occur. Disturbances of public order were reported in 82 of the country's 1,072 municipalities and, in the majority of these incidents, guerrilla fighters of the so-called Revolutionary Armed Forces of Colombia (FARC) rebel group were said to be responsible. The presidential election was held from 31 May to 21 June in two rounds of voting without any serious disturbance of public order. Andrés Pastrana Arango was elected President of the Republic with 50.5 per cent of the votes and took office on 7 August.

30. From 12 to 15 July, representatives of the guerrilla group, the National Liberation Army (ELN), and various sectors of Colombian civil society held a meeting in the Himmelpforten Monastery near Mainz in Germany. The meeting ended with the signing of a document entitled "Puerta del Cielo Agreement", in which the signatories agreed to start a peace process, adopt measures to make the war more humane and convene a national convention whose meetings would begin on 13 February 1999. The convention is to lay the foundations for a political agreement which will lead to reforms designed to democratize the Government and society.

31. In July, President-elect Andrés Pastrana met with members of the FARC National Secretariat. The purpose of the meeting was to explore ways of carrying on a fruitful dialogue with this insurgent group. It was agreed that five towns had to be cleared so that a negotiating table and a dialogue could be set up during the new Government's first 90 days. In October, the Government recognized the political nature of the ELN and the FARC. It nevertheless warned that such recognition did not mean granting these two guerrilla groups belligerent status. FARC proposed to the Government that members of the security forces in guerrilla hands should be exchanged for guerrillas detained in Colombian jails. Some of these guerrillas are awaiting trial and others are serving sentences, some of which were imposed for the commission of offences constituting breaches of international humanitarian law. At the time of writing of the present report, the authorities had not adopted any decision in this regard.

32. On 7 November, in accordance with the agreement between the Government and FARC, government armed forces left the towns of La Macarena, Vistahermosa, La Uribe, Mesetas and San Vicente del Caguán. Within days, these towns were occupied by the guerrilla forces, which nevertheless stated that they recognized the authority of the incumbent mayors. The fact that there were

disarmed soldiers at the San Vicente del Caguán military base caused a delay in the start of the talks between the Government and FARC. The setting-up of the negotiating table was scheduled for 7 January 1999.

IV. SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

33. Massacres with clear signs of extrajudicial executions, torture, forced disappearances and forced displacements occurred systematically throughout 1998. With regard to conduct forbidden by international humanitarian law, there were numerous cases of murders of protected persons, torture, taking of hostages, attacks on the civilian population and forced displacements, which followed a systematic pattern. The deterioration of the human rights situation is the result of the worsening of the armed conflict and the failure by the Government to implement effective legislative, administrative and other measures, such as those intended to combat paramilitary activity and impunity or to protect human rights advocates.

34. The civilian population has been increasingly affected as a result of the intensification of the armed conflict. This has led to large-scale displacements of people, who have lost many of their civil, political, economic, social and cultural rights as a consequence. At the same time, there has been a noticeable, generalized degradation of the conditions prevailing in the armed conflict. The responsibility for this lies mainly with the guerrilla and paramilitary groups, which are resorting to terror tactics to consolidate and extend their territorial domains.

35. According to the Office's observations, the failure by the main rebel organizations, namely the FARC, the ELN and the EPL (Popular Liberation Army), to meet humanitarian standards has persisted.

36. In many places, such as Dabeiba and Vigía del Fuerte (Antioquia), Southern Bolívar, Tolima, San José de Guaviare, Rionegro (Santander) and Carmen de Atraco (Chocó), the Colombia Office observed, either directly or through first-hand information, that, despite the complaints filed by it and by other governmental and non-governmental organizations, collusion between the paramilitaries and the security forces or civilian authorities had been continuing, in some cases for over a year. In most of the cases reported by the Office to the Government, no information has been received on the progress of the investigations and remedial measures. On the basis of its own observations, statements by the paramilitary groups themselves and discussions with independent experts, the Office has concluded that the paramilitary groups are not working against the Government and that many of their activities take place in conjunction with sectors of the security forces and some civilian bodies. Action by the security forces against the paramilitary groups has been occasional and is not in proportion to the participation of these groups in serious violations of human rights. Signs of the lack of willingness to combat the paramilitary groups effectively include the fact that the location of many of their assembly and training sites is public knowledge on the part of the population and the authorities. 1/ Although many of these places are also known to the Office of the Procurator-General, the latter cannot intervene because it does not have the necessary support from the security forces (police and army). There were also further reports that helicopters were used by the paramilitary groups to spread propaganda and

conduct combat operations, for example in southern Bolívar in November 1998. There is no explanation of how these many flights can elude air traffic control, which is very strict in Colombia.

37. The government body which was the most energetic in trying to carry out its constitutional function of bringing the members of paramilitary groups to justice was the Office of the Procurator-General. In 1998, important arrests were made of persons involved in the establishment of paramilitary groups. 2/ In 1998, 418 persons involved in paramilitary activities were arrested in the country, according to an official report by the Office of the Procurator-General of the Nation. Of these persons, 82 belong to the security forces and have been criminally charged for this offence. The Technical Investigation Unit of the Office of the Procurator-General arrested 125 persons, the Army arrested 81 and the police 212. The courts have sentenced 36 persons for paramilitarism.

38. The Special Vigilante and Private Security Services, formerly known as "Convivir" associations, continued their activities, but with a much lower profile than in the previous year. In late August, the National Confederation of Convivir Associations publicly announced the disbanding of 300 "Convivir", but this could not be confirmed by the Office of the Superintendent of Vigilante and Private Security Groups.

39. The Colombia Office also received information on violations of human rights, for which members of the military forces and the police were said to be responsible.

40. The increase in violence, the deterioration of the human rights situation in the armed conflict, the expansion of paramilitarism, the disregard for international humanitarian law on the part of both the guerrilla and the paramilitary forces, the attacks on human rights advocates, the worsening internal displacement situation, widespread impunity, the serious prison crisis and the precarious situation of the most vulnerable population groups together make up a sombre picture which reflects the gravity of the human rights situation in Colombia.

A. Civil and political rights

1. Right to life

41. During the period covered by the report, the Colombia Office received 210 complaints, 125 relating to individual and collective summary executions, 17 to attempted executions and 18 to death threats. Violations of the right to life took the form of extrajudicial executions, some of which were of a political nature, while others were intended as intimidation or were carried out against socially stigmatized persons. A large number of murders took the form of massacres.

42. Political executions primarily affected persons whose actual or alleged circumstances, ideology, activity, origin or relationships were invoked by those responsible for their death as serious indicators that they supported, assisted or sympathized with the insurgency. These executions were usually carried out selectively, with the victims being chosen in advance, not

infrequently through the use of lists that made it possible to identify them from among a group of persons placed in circumstances of defencelessness or inferiority. 3/

43. Executions for purposes of intimidation were characterized by their indiscriminate nature. Men, women and children lost their lives solely because their death was intended to terrorize the inhabitants of the area and bring about forced displacement. In such cases, it was impossible to establish a link between the persons who were eliminated by violent means and any reason that could be invoked by those responsible for murdering them for political reasons.

44. The executions of socially stigmatized persons were based on prejudice and discrimination. In towns and villages alike, the persons responsible for these murders were carrying out insane "social cleansing" campaigns.

45. The victims of the three types of violations of the right to life include persons from the widest range of social and economic conditions, such as peasants, workers, tradespeople, public servants, judicial officials, trade unionists, community leaders, religious ministers, journalists, human rights defenders, social workers, health workers, members of indigenous and Afro-Colombian communities, former guerrillas reinstated in civilian life and members of marginal sectors (indigent persons, street dwellers, homeless children, drug addicts, pushers, prostitutes, former convicts and petty thieves).

46. The massacres were concentrated primarily in the departments of Antioquia, Meta, Bolívar and Santander. Most of them were the work of paramilitary groups which enjoyed full freedom of action to carry them out, although, in some cases, the killing was feared and announced by the people in the area, by the civilian authorities themselves and even by the Colombia Office. 4/

47. Quite a few of the violations to the right to life showed clear signs of being extrajudicial executions, since the killings were done by persons who acted with premeditation, without any justification under criminal law and for punitive purposes, abusing their public functions in some cases and, in others, acting in obvious collusion with government officials, with their logistical support or, at the very least, with their tacit backing.

48. In some cases, the military and police authorities tried to justify the death of victims of extrajudicial executions by claiming that they were guerrillas shot while fighting with government forces or ordinary criminals violently resisting arrest. In other cases, the murders were covered up with false reports of incidents in which the persons executed had died.

49. According to the files of the Colombia Office and the other sources consulted, those responsible for the largest number of violations of the right to life are members of paramilitary groups, identified as the perpetrators of two thirds of all executions. However, in a number of cases known to the Colombia Office, the complainants were able to refer to facts pointing to the joint participation of and complicity between paramilitaries and law enforcement officials.

50. Violations of the right to life in Colombia cannot be discussed without reference to the many cases of death threats. Such threats, which are made directly, by telephone, by mail, and by messages and printed matter, were directed against hundreds of persons throughout the country, many of whom chose to leave their homes in order to escape their announced murder. In some cases, all the inhabitants of a village or district or all the officials in a government department, were threatened.

51. The Special Rapporteur on extrajudicial, summary and arbitrary executions continued to receive large numbers of allegations of violations of the right to life in which the main victims were civilians, particularly human rights defenders, community leaders, peasants, indigenous peoples and witnesses to crimes. The Special Rapporteur reports that paramilitary groups are mainly responsible for such violations (see document E/CN.4/1999/39/Add.1, paras. 58-63).

2. Right to personal integrity

52. The Office received 15 complaints relating to violations of this right. As explained in the preceding report (E/CN.4/1998/16, para. 48), the number of cases of torture reported in Colombia does not reflect the frequency and intensity with which violations of the right to personal integrity are committed in the country. In many cases, the victims of torture refrain from reporting what happened to them to the competent authorities because they are afraid of reprisals by the persons who tortured them. In other cases, the torture of a person executed extrajudicially is not included in the files, which show only the date of the violent death. Cruel, inhuman and degrading treatment or punishment affected persons arrested by the military forces in areas where counter-insurgency operations were being carried out, persons deprived of their liberty in police stations and persons detained in prisons. In this respect, law enforcement officials and prison guards have frequently acted contrary to the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and the Standard Minimum Rules for the Treatment of Prisoners. Many of the victims of extrajudicial executions were first subjected to grave physical suffering, since their corpses showed clear signs of beatings, whipping, burns and battering. Only in a few cases did the torturers try to obtain confessions or testimony from the persons being tortured; they were usually out to punish the victims for their ideas or activities or to coerce or intimidate third persons by torturing them in a public place or in the presence of their neighbours or relatives. The overwhelming majority of cases of physical torture were attributed to paramilitaries.

53. The Special Rapporteur of the Commission on Human Rights on the question of torture sent an urgent appeal to the Government of Colombia in which he requested information on 19 cases of torture and a reply to cases transmitted in 1997 (see document E/CN.4/1999/61, paras. 147-168).

3. Right to liberty and security of person

54. Unlawful and arbitrary arrests took place either without a warrant, or in violation of the procedures provided for by law or without legal grounds whatever. The Office received 10 complaints of arbitrary arrests. Although,

in times of institutional normality, the members of the military forces do not have powers of arrest, there were many cases of persons arrested by members of the army for interrogation or to force them to act as guides or informers for soldiers. There is no doubt that two factors contributed to unlawful arrests: the broad powers of arrest enjoyed by the police on the basis of various rulings by the Constitutional Court and the dismantling of the remedy of habeas corpus that has been going on for several years. The amendment of the procedural rules on habeas corpus which the Office recommended in 1997 were not included in any of the bills that might have contained them.

55. Violations of the right to security of person took the form of enforced disappearances. 5/ The Office received 51 complaints of enforced disappearances, which continued to be one of the serious human rights violations committed most frequently in Colombia. In a few cases, the missing persons were released following a period of detention and concealment. In nearly all cases, disappearance led rapidly to torture, extrajudicial execution and the burial of the victim in a clandestine grave or to the abandonment of his corpse in a place where it could not be easily identified. Although the perpetrators of most of the enforced disappearances reported in 1998 were members of paramilitary groups, there were also cases of the disappearance of persons deprived of their liberty by members of the military forces and the police. The Working Group on Enforced or Involuntary Disappearances transmitted 54 cases to the Government of Colombia, of which 50 took place in 1998. The Government replied by indicating that several cases are still under investigation. It should nevertheless be pointed out that there are very few cases in which the persons responsible are brought to trial (see document E/CN.4/1999/62, paras. 82-90).

56. Article 12 of the Colombian Constitution expressly states that "no one shall be subjected to enforced disappearance". However, since this offence is not listed in the Penal Code, the judicial authorities are required to investigate and try disappearances on the basis of the rules applying to the offences of kidnapping and arbitrary detention.

4. Right to freedom of movement and residence

57. Most of these violations occurred as a result of forced displacement. Other violations of freedom of movement occurred as a result of the arbitrary application of restrictions on freedom of movement by members of the security forces and the unlawful installation of fixed pedestrian and vehicle control points by members of paramilitary groups. In the first case, the inhabitants of certain areas where guerrilla groups operate were indiscriminately prevented from moving from one place to another. In the second, roadblocks were used to "select" individuals who were then subjected to enforced disappearance, torture and murder.

5. Justice

(a) Impunity

58. According to the authorities themselves, barely 20 per cent of offences committed are investigated in Colombia and 214,907 unexecuted arrest warrants were counted. The atmosphere of violence and intimidation that often

surrounds the work of the prosecutors, judges, magistrates and lawyers who take part in criminal proceedings as representatives of persons seeking criminal indemnification or as defence counsel favours impunity. In 1998, at least 15 officials from the Technical Investigation Unit of the Office of the Procurator-General were murdered, 6 in Antioquia. A prosecutor was also murdered in that department. Many of these victims were conducting investigations into paramilitary groups. Several other prosecutors connected with investigations of these groups or members of the security forces were forced to abandon their posts and seek refuge abroad because of the threats they received. In September, the ACCU (Peasant Self-Defence Groups of Córdova and Urabá) threatened all the prosecutors in the Human Rights Unit of the Office of the Procurator-General. In addition to this particularly serious situation, there is the widespread problem of threats to staff members of the Office of the Procurator-General, including senior officials. The Office of the Procurator-General reports that specific threats were made against 21 prosecutors throughout the country. According to information provided by FASOL (Solidarity Fund between German Judges and Colombian Judges Victims of Violence - Judicial Branch), an NGO specializing in this matter, 22 members of the judiciary (the majority of the Office of the Procurator-General) were killed, 4 were injured, 4 were detained and kidnapped and 13 had to move away as a result of threats during the period from January to 31 October. The Special Rapporteur on the independence of judges and magistrates has repeatedly expressed his concern about such incidents (see document E/CN.4/1999/60, paras. 76-79).

59. The judicial authorities are also contributing to impunity by creating unjustified delays. Overwork and the shortage of funds and professional technical resources are making the administration of justice even more difficult. It should, however, be noted that, in recent months, the Office of the Procurator-General has conducted successful investigations into the murders of several human rights advocates and other horrible crimes.

60. One of the causes of impunity is that, in many parts of the country, people are afraid to fulfil their legal obligations as complainants or witnesses because, in quite a few cases, those who cooperated with the judicial authorities or made statements against persons responsible for the crimes were either killed or harassed.

61. Another factor favouring impunity is the leniency of the military criminal courts in investigating and trying members of the security forces involved in human rights violations and breaches of international humanitarian law. Very few soldiers and police officers have been sentenced by the military courts, even though the Office of the Attorney-General of the Nation has established the disciplinary responsibility of the accused for the offences for which they are being tried. The decisions of the Constitutional Court clearly show that, in the Colombian legal system, military jurisdiction is of a special and exceptional nature and may handle the offences committed only when the punishable acts have a clear-cut, close and direct link with official duties. However, the military courts continue to claim that they have jurisdiction to prosecute members of the armed forces who have been accused of wrongful acts, which, by their very nature and seriousness, cannot be considered to be related to the duties of the security forces. 6/ According to the Court, any doubt about jurisdiction to try an offence

committed by members of the security forces must be resolved in favour of the ordinary courts. This criterion has not been stringently applied. In settling conflicts of jurisdiction, the Supreme Judicial Council has continued to refer proceedings to the military criminal courts which should, according to the above-mentioned ruling, be tried by the ordinary courts.

(b) Due process

62. Violations of the right to due process and judicial guarantees took place particularly in connection with the operation of so-called "regional justice" ("faceless justice"), whose elimination has been recommended on a number of occasions by various international human rights organizations. The system of regional justice is contrary to article 14 of the International Covenant on Civil and Political Rights, since public hearings are done away with, while court officials and witnesses for the defence act anonymously, deadlines for investigations are far too long and, in practice, grounds for temporary release are eliminated. In 1998, disciplinary investigations by the Office of the Attorney-General of the Nation showed that regional justice officials engaged in the unlawful practice of "cloning witnesses", by which a person can make statements both as an identified witness and as a "faceless" witness and his testimony appears in the files as a set of statements that corroborate one another. The Colombian authorities have kept the rules extending the jurisdiction of regional justice in force until 30 June 1999. Neither of the two bills submitted in 1997 to terminate such jurisdiction was approved by the Congress. Although the time limit is to expire within a few months, moreover, no legal measure has been taken to prevent the dismantling of this system from severely hampering the administration of justice, jeopardizing the security of judicial officials and witnesses and giving rise to new violations of the rights of persons on trial.

63. The procedure followed by the military criminal courts in trying members of the military and the police is also contrary to the provisions of article 14 of the International Covenant on Civil and Political Rights. It contravenes the principle of the independence and impartiality of the judicial authorities, since the trial function is entrusted to the hierarchical superior and there is no separation at all between the function of command and that of prosecution. This means that in some cases the same official may act both as judge and as party in relation to the acts under investigation. It must also be regarded as a violation of human rights that, in the military criminal courts, persons who have suffered loss or injury as a result of an offence are not allowed to introduce criminal indemnification proceedings (parte civil).

(c) Prison situation

64. Colombia's prison population, which is the responsibility of the National Penitentiary and Prison Institute (INPEC), continues to feel the ill effects of overcrowding, since there are 40 per cent more prisoners than the State's prisons can handle. The implementation of rules on "alternative penalties", which were adopted in December 1997, has not had any noticeable effect on the situation of overcrowding. In 1998 alone, moreover, four different officials have been in charge of INPEC and this has done nothing to

further the formulation of comprehensive plans and strategies to deal with the prison problem. The announcement of the building of new prisons which was made last year has not been followed up this year.

65. The lack of security in prisons continued to be a matter of great concern to the Office. Riots, escapes and murders continue to take place without any effective response by prison and government authorities. The lack of internal control appears to be the main cause of much of the violence, such as that which occurred on 13 April 1998 in La Picota prison in Bogotá, when 15 prisoners were killed by other prisoners. 7/

66. The introduction of pre-trial detention as a general rule, administrative corruption, inadequate medical care, the lack of genuine social rehabilitation channels and programmes, the situation of the children of women prisoners and the abuses to which relatives are subjected during pre-visit searches continue to be the main questions to which prisoners would like answers from the authorities. Attention is also drawn to the budget restrictions imposed on the Office of the People's Advocate for the provision of free legal representation for persons who cannot afford it.

B. Economic, social and cultural rights

1. Socio-economic context

67. Diagnoses by various governmental and non-governmental sources and by the United Nations system confirm the seriousness of the situation with regard to these rights. Out of 40 million inhabitants, approximately 50 per cent are women, 41 per cent are minors, 70 per cent live in urban areas and 18 million live in poverty. Per capita GDP income and improvements in education and health place Colombia among the countries with a "high human development index", higher than the Latin American average. There is, however, an enormous socio-economic and demographic gap between urban and rural areas. The inequality is so great that the rating has been reduced to that of "medium development", which means that the country has regressed by 10 years. 8/ Poverty and unemployment rates increased throughout the year and there was an increase in violence, as well as a continuing serious problem of corruption at all administrative levels. Although the authorities continued to try to eliminate drug trafficking, it goes on being a serious problem for the stability of institutions and the expansion of Colombia's international relations. The upsurge in violence, widespread corruption and the problem of drug trafficking have contributed to the fact that the country's socio-economic situation has not improved at the expected rates. As a result of the sharp deterioration in the economic situation, the Government has declared an economic state of emergency, adopted various fiscal adjustment measures and imposed new taxes. President Pastrana has submitted a set of adjustment measures and a national development plan.

2. Right to work and social security

68. The right to work in Colombia is being hampered by the rise in unemployment. According to the National Administrative Statistics Department (DANE), 15.7 per cent of the active population is unemployed. This is the highest figure for 25 years and the majority of persons affected are

women, particularly in rural areas, and young people. The quality of employment has also deteriorated 9/ and there has been a significant increase in the informal sector.

69. According to the United Nations Common Country Assessment for 1998 (CCA), there has been no improvement in the workers' protection model and a minimum wage is far from being universally and sustainably guaranteed. There is neither a reliable record of work accidents nor an appropriate diagnosis of work-related illnesses and there are few labour inspection activities.

70. The Office is concerned about inadequate steps to eliminate child labour, 10/ whose impact is much greater in rural areas. Cases have been recorded of minors who work more than 50 hours, when the legal limit is 26 hours per week.

71. The Office notes that some trade union rights are still not recognized and that domestic legislation has not been brought into line with the International Labour Organization Conventions to which Colombia is a party. The right of government employees to organize and to collective bargaining is not allowed and neither is the right to strike in the case of non-essential public services. The Labour Statute provided for by the Constitution and international instruments has not been enacted. In many cases, protests take the form of work stoppages, a mechanism which is not accepted by Colombian law. The most relevant stoppage was that by State workers in October 1998, during which seven trade unionists were killed.

3. Right to education and culture

72. Despite the progress made in reducing illiteracy, the situation with regard to education in Colombia is precarious. According to 1998 data of the Human Development Report for Colombia (IDHC), universal pre-school and primary school coverage is far from having been achieved, since public expenditure is not sufficient to cover all the needs of basic education. There is also more investment in higher education than in primary and secondary education. The main feature of educational development is the imbalance between regions, urban and rural areas and social groups. 11/ The Human Development Report for Colombia and the National Planning Department (DNP) point out that, although improvements have been made in the process of educational and cultural decentralization, there are still shortcomings with regard to universal access to cultural property.

4. Right to health

73. According to the CCA, the health system still has not achieved the objective of universal coverage and is available to only 57 per cent of the population, although there has been an increase in public spending and there have been some improvements in the process of decentralization.

74. From 1985 to 1995, the life expectancy of Colombians rose from 62 to 70 years as a result of the drop in the mortality rate in general and the child mortality rate in particular, although the latter continues to be high in rural areas and by comparison with other countries of the region (Human Development Report for Colombia data). According to the Ministry of

Health and the Pan-American Health Organization (PAHO), violence is the main cause of illness, since it accounts for 25 per cent of the causes of mental illness.

75. According to the most recent figures provided by the United Nations Population Fund, as far as reproductive health is concerned, the objective of reducing the maternal mortality rate has not been achieved.

76. There are no specific statistics on sexually transmitted diseases and AIDS. Inadequate preventive policies have not halted the spread of the epidemic, which, according to Ministry of Health data, has increased by over 100 per cent in the last two years. In many cases, the Office has observed how counselling has helped provide care for AIDS patients.

5. Right to food

77. According to DNP, the right to food is primarily affected by the crisis in the rural sector and the lack of an equitable, efficient and productive development model, as well as conditions of poverty and violence in the country. Although displaced persons receive "food supplement" rations during extended periods of time, which may even exceed one year in some cases, there are shortcomings in the supply of food to displaced population groups.

6. Right to housing

78. According to the CCA, access to housing has been seriously affected by the crisis in subsidy programmes for low-income families, onerous rates of interest for the financing of dwellings and heavy speculation on prices of urban land without any monitoring policies. In its September report, the Colombian Housing Chamber (Camacol) estimates that Colombia has a shortage of 1.2 million dwellings.

7. Right to a healthy environment

79. According to the investigation conducted by DNP in 1998, the natural resources situation is reaching dangerous and undetermined levels of deterioration and shortage. DNP indicates that water is beginning to be practically used up and polluted at source. Colombia has no culture of soil conservation and the methods used in agriculture and animal husbandry, particularly in hilly areas, are inappropriate and have caused erosion and desertification.

80. Deforestation increased in Andean and sub-Andean regions, one of the main causes being the use of chemical precursors for illegal crops, which also contaminate and endanger people and crops.

81. Another particularly serious matter is the increase in oil spills caused by guerilla forces blowing up pipelines, thereby generating effects that are harmful to human beings and the environment.

C. Women's rights

82. The 1998 Human Development Report for Colombia (IDHC) estimates that, despite the progress made in the last 40 years with regard to the recognition of women's rights, there are still situations that have to be corrected. For example, men earn 27 per cent more in wages than women and, although this is prohibited by law, maternity and marriage continue to make it difficult for women to be hired on the labour market. Labour market penetration is lower, job quality less good, health protection inadequate and women suffer the consequences of the high level of violence and the armed conflict. 12/ The National Equity Department, a body reporting to the Office of the President of the Republic, estimates that women account for 54 per cent of the poor population of the country and that 25 per cent are heads of household. According to the non-governmental organization Advisory Office for Human Rights and Displacement (CODHES), 56 per cent of displaced persons are women.

83. Although women account for 49.7 per cent of the voting population, none of the 32 departments is governed by a woman. Only 5 per cent of mayors' offices are headed by women mayors and only 17 of 159 members of the House of Representatives and 14 of 102 members of the Senate are women.

84. The Human Development Report for Colombia states that girls have better access to education and better results in primary school than boys. However, the situation worsens considerably as the level of schooling increases.

85. According to the Forensic Medicine Institute, 81 per cent of the victims of family violence in 1997 were women, with a 13 per cent increase compared to the previous year, and three quarters of the women injured are aged under 35 years. The United Nations Population Fund indicates that Colombia is one of the countries with the highest rate of traffic in women for the sex trade.

D. Rights of the child

86. The situation of children in Colombia is a matter of concern. According to the Colombian Family Welfare Institute (ICBF), 30,000 minors live in the streets in large towns. Most of them are addicted to alcohol, drugs and inhalants and many are the victims of so-called "social cleansing".

87. The Office of the Procurator-General of the Nation estimates that 25,000 children throughout the national territory are sexually exploited. A study carried out by the Office of the People's Advocate indicates that there are networks for the traffic in women and children that operate throughout the national territory with a view to domestic, international and intercontinental trade. The rate of sexual offences against minors and the inadequate measures adopted to improve the situation 13/ are also matters of concern.

88. Other studies by the Office of the People's Advocate recognize the unfavourable situation of juvenile delinquents, against whom practices such as deprivation of liberty in police stations and isolation as a method of punishment are used.

89. There is also concern about the growing number of minors who are victims of internal displacement and who have the greatest needs and wants. According to CODHES data, minors account for 55 per cent of the population displaced by the violence.

90. The amendment of the Minors' Code, which is to be brought into line with the Convention on the Rights of the Child, is still pending. The draft submitted to the Congress last year was shelved.

E. Ethnic minorities

91. Although the Constitution "recognizes and protects the ethnic and cultural diversity of the nation", the Office has received many complaints indicating a less favourable situation. In a number of areas, disputes over land leave indigenous populations unprotected notwithstanding legal guarantees available. 14/ Colombia currently has more than 400 indigenous territories which are considered inalienable and are administered autonomously by indigenous authorities. These territories, which cover a total area of 280,000 km^2, equal to one quarter of the area of Colombia, have a total indigenous population of approximately 700,000.

92. Indigenous communities' declarations of neutrality in the armed conflict were usually respected by the various parties to the conflict. With the resurgence of violence, a number of violations of the rights of indigenous populations have been reported. For example, in the mountainous areas of Chocó and Antioquia throughout the year, and in Vaupés following the taking of Mitú by the FARC, particularly serious incidents have occurred involving numerous deaths, disappearances and forced displacements.

93. The Afro-Colombian communities have also been unable to effectively exercise their rights. Their territories, too, enjoy special legal protection in theory. Thousands of members of these communities have been displaced and evicted from their land in precisely those areas in which allocations of land provided for by law were to be put into effect.

94. In some areas of the country, particularly Chocó, indigenous and Afro-Colombian populations have been the most affected by the alarming deterioration in the health situation, particularly with the spread of endemic diseases such as malaria and dengue, a situation which has not been properly addressed by the Government.

F. Displaced persons

95. One of the more serious manifestations of the human rights and international humanitarian law crises in Colombia is unquestionably internal displacement. According to NGO estimates, 241,000 individuals were subjected to forced displacement in the first nine months of 1998. If this trend were to continue until the end of the year, the number of displaced persons would be 25 per cent higher than in the previous year. The Office of the People's Advocate and the NGOs all assert that the total number of displaced persons is now more than 1,300,000. According to UNHCR, Colombia's internally displaced population is among the eight highest in the world. The phenomenon of

internal displacement has spread to almost all the country's departments, the most seriously affected being Antioquia, Chocó, the departments on the Caribbean coast and the Magdalena Medio area. 15/

96. Most displacements occur as a result of other grave and massive violations of human rights and large-scale violations of international humanitarian law. Displacement is also a wartime strategy for controlling territory. The intensification and spread of the dispute over territory among parties to the conflict has led to an increase in the number of displacements. 16/

97. Displacement is also a way of gaining possession of land. The existence of natural resources and/or the implementation of large-scale economic projects tend to create pressures which force small-scale farmers to leave their land. The Office has received reports of compulsory sales of land at far below market values.

98. Displaced persons concentrate in municipal centres, large towns and departmental capitals. Because of the precarious financial status of many municipalities and the failure to allocate sufficient resources specifically for displaced persons, it has proved virtually impossible to meet their needs. Many displaced groups are undernourished and access to health services, housing and education is limited and inadequate to meet needs. Although the Government has signed assistance agreements, the Office has observed during field visits that they are not honoured. 17/ In a statement on 25 June 1998, the Office publicly expressed its concern at the lack of humanitarian assistance being provided to displaced persons and condemned the failure to implement Act No. 387 on displaced persons, as well as recalling the applicability of the United Nations Guiding Principles on Internal Displacement.

99. This situation sometimes gives rise to frustrations and predisposes receiving communities and municipal authorities to reject displaced persons. The serious deficiencies in State assistance have prompted some groups of displaced persons to resort to protest measures such as sit-ins in public offices, street demonstrations and hunger strikes. The leaders of these actions are often condemned or even made "military objectives" by paramilitary groups. This combined with the spread of the conflict has increased the number of cases of second and even third displacements. 18/

100. Some displaced persons have opted for resettlement as provided in Act No. 387. A displaced person wishing to buy land has to pay only 30 per cent of the land's value. The procedure is slow, however, and relatively few displaced persons have been able to take advantage of it. In some cases, resettlement has brought new security problems due either to the fact that the land allocated has been in areas of influence of the parties to the armed conflict or to internal problems within the settlements themselves. Those who have decided to return to their communities have also been victims of further violations, thus demonstrating that the protection afforded by the authorities has been insufficient and ineffectual. 19/

101. The Representative of the Secretary-General on displaced persons has been closely following the internal displacement situation in Colombia and

believes that a number of the recommendations which he made following his visit to Colombia in June 1994 have been adopted (see report E/CN.4/1999/79, paras. 84-86). However, the lack of any policy for combating the causes of displacement and enabling displaced persons to enjoy their fundamental rights only helps to worsen the already difficult internal displacement situation.

G. Human rights advocates, trade unionists and journalists

102. In 1998, the situation of human rights advocates continued to be very worrying. In February 1998, Jesús María Valle was shot dead in his office in the centre of Medellín (Antioquia). In April, Eduardo Umaña Mendoza died in a similar attack in Bogotá. The deaths of these two lawyers, who were nationally and internationally renowned for their work in defence of human rights, caused widespread apprehension among human rights advocates. The Office of the Procurator-General arrested a number of individuals on charges of having perpetrated or masterminded the crimes in question.

103. Following the murder of retired General Fernando Landazábal on 13 May 1998, the Procurator-General's Office, at the request and with the support of the Army, searched the national headquarters of the Intercongregational Committee for Justice and Peace of the Conference of Members of Religious Orders of Colombia, in Bogotá. In the course of the search, the soldiers subjected the building's occupants to intimidation. Father Javier Giraldo, S.J., the General Secretary of the NGO, was compelled to cease all public activities and stay in hiding, following threats received after the search. Like Father Giraldo, a large number of very well-known human rights advocates were obliged to give up their work and seek refuge abroad. These events are typical of the general atmosphere of suspicion, pressure and open harassment to which many human rights NGOs are subjected, despite public recognition of their work by the Government.

104. On 21 April, President Samper held a meeting with human rights NGOs, various government ministers, senior members of the security forces, the Office of the Procurator-General and the Office of the Attorney-General to look into the question of the safety of human rights advocates. At the meeting, to which the Colombia Office was invited, agreement was reached on a number of measures, including the inspection of the records of army intelligence Brigade XX by the Attorney-General of the Nation. The meeting also agreed to assign trusted personnel to the protection of persons who had been threatened and to step up security measures at the headquarters of NGOs. At the time this report was completed, no information had been received on progress in inspecting intelligence records.

105. Threats have been made not only against representatives of human rights NGOs, but also against local officials. The Office was informed of threats against at least 13 officials who had worked in the fields of human rights and peace during the last months of the previous Government. They included the then Presidential Adviser on Human Rights, who was forced to leave the country, and two senior officials of the Office of the High Commissioner for Peace.

106. Persecution and harassment of trade union members and leaders continued in 1998. The most glaring example was the killing of

Jorgé Luis Ortega García, the Vice-President of the Trade Union Confederation (CUT), the country's largest labour organization, during a nationwide work stoppage. The only person arrested in connection with this act, the sole possible witness, was found dead a few days later in prison. Death threats continue to be made against the leaders of the oil-workers' union, USO, who had supported the protests against the massacre of seven residents of the oil town of Barrancabermeja and the enforced disappearance of 25 others at the hands of paramilitary groups on 16 May 1998.

107. The Foundation for Freedom of the Press and reports made public during the general assembly of the Inter-American Press Association in Uruguay in November 1998 both assert that eight journalists were murdered in Colombia between January and October 1998. Although it has not yet been possible to identify the perpetrators in all cases, in at least four of them, the victim's death is thought to have been politically motivated.

H. Main breaches of international humanitarian law

108. In the non-international armed conflict being waged in Colombia, article 3 common to the four 1949 Geneva Conventions, the provisions of Additional Protocol II of 1977 and customary law all apply. Insofar as certain human rights violations are committed within the context of a non-international armed conflict, they also constitute violations of international humanitarian law.

109. The ELN (National Liberation Army), FARC (Revolutionary Armed Forces of Colombia) and EPL (Patriotic Liberation Army) guerrillas, as well as Carlos Castaño, the head of AUC (United Self-Defence Groups of Colombia), the largest paramilitary organization, have repeatedly reiterated their undertaking to abide by international humanitarian law, incorporating some of its provisions in the organizations own codes of warfare. In practice, however, the various armed groups have adopted fanciful interpretations of international humanitarian law, justifying the killing of opponents in non-combat situations, targeting civilians as "military objectives" or applying their own concepts of justice in order to kill persons in their power.

110. All parties to Colombia's internal armed conflict committed serious violations of international humanitarian law during 1998. Specifically, the Colombian Office was informed of the following:

1. Murders

111. Murders of persons not directly involved in hostilities or no longer involved in them, including members of the armed forces who had laid down their arms or been put out of action after being ill, wounded or taken prisoner, were committed on a large scale by guerrilla and paramilitary groups. There were also reports of murders committed by members of the security forces. The guerrilla groups were responsible for selective killings of civilians suspected of collaborating with or providing information to paramilitary groups or the security forces, as well as for the murder of members of the security forces who had surrendered or been taken prisoner. Some of the killings attributable to guerrilla groups were carried out by

members of the FARC and ELN urban militias, who do not wear uniforms. Paramilitary groups were also responsible for selected killings of civilians suspected of collaborating with the guerrillas. On many occasions, these killings took the form of massacres. 20/

2. Threats

112. A practice of the paramilitary groups is to terrorize whole populations by painting threats on the walls of houses and the large-scale distribution of leaflets. These threats often precede massacres or mass displacements. Both guerrilla and paramilitary groups resort to threats against the lives and physical integrity of individuals so as to force civilians to pay "war taxes" or "dues" or to collaborate with them. Selective killings of civilians who have refused also have a terrorizing effect on the relatives of the victims, frequently resulting in their displacement. The victims of extortion range from large landowners or livestock farmers to the most humble peasants.

3. Hostage taking

113. The guerrillas continued to engage on a large scale in abductions for ransom in order to fund their activities. In some cases, kidnappings, especially of members of municipal authorities, were carried out for publicity or propaganda purposes. In 1998, there was an increase in the number of mass abductions, known as "miraculous catches", carried out by the guerrillas, who set up roadblocks on the main highways.

114. At the meeting with representatives of civil society from 12 to 15 July 1998 in Mainz, Germany, ELN undertook not to abduct persons aged over 65 or under 18 and pregnant women. However, the group continued to carry out kidnappings, sometimes in breach of their own undertaking.

115. Fundación País Libre reports that from January to October, 921 persons were kidnapped for ransom and 372 for political reasons by the various guerrilla groups, i.e. a total of 1,293 individuals, or 64 per cent of all kidnappings carried out in Colombia.

4. Attacks on the civilian population

116. In the course of the fighting, the civilian population has often been subjected to indiscriminate attacks or been used by the combatants as a shield against enemy fire.

117. The paramilitary groups have used attacks on the civilian population as their main war strategy, as evidenced by the innumerable massacres committed.

118. Although, on a number of occasions, the guerrilla groups warned the population of their intention to attack, the fact that the population did not move out did not deter them from proceeding with the attack. Many civilians died in crossfire, houses were destroyed, resulting in the displacement of their occupants and, in many cases, the guerrillas made use of buildings adjoining their military objectives. 21/ The guerrillas at times carried out terrorist-type attacks by blowing up civilian installations. 22/

119. In their counter-offensives, the armed forces also caused numerous civilian casualties, particularly as a result of aerial gunfire and bombing. The Office was also informed of cases in which the security forces occupied schools or private houses.

5. Forced displacement

120. Forced displacement has become one of the most serious problems caused by Colombia's internal armed conflict (see paras. 95-101).

6. Torture and ill-treatment

121. In many cases, the deaths of persons being held by paramilitary groups were preceded by acts of brutality, torture and sometimes mutilation. The security forces also reported many cases of soldiers or police officers captured by guerrillas having been tortured before being killed. While they are not indicative of a widespread practice, complaints were received by the Office of acts of torture carried out by the security forces in order to obtain information from individuals detained in connection with the armed conflict.

7. Violations of the general protection of medical duties, medical units and transports

122. Although many of these offences were committed by the guerrillas and paramilitary groups, the security forces also on occasion attacked medical facilities.

123. The most serious and frequent violations are paramilitary and guerrilla attacks against the lives and physical integrity of medical personnel, often merely for having attended to wounded combatants, in accordance with the duties and ethics of the profession, or simply because of the suspicion engendered by their presence in areas of conflict. 23/ Paramilitary groups are also known to have threatened or even killed medical personnel for having assisted guerrillas. 24/

124. The security forces also, on occasion, occupied hospitals or health centres. On a number of occasions, the armed forces impeded the free movement of medical and food supplies and ambulances were used for military intelligence work or for transporting prisoners.

8. Recruitment of children

125. Despite the prohibition of the recruitment of children under 15 years of age and against allowing them to take part in hostilities, guerrilla and paramilitary groups continue to involve children in the conflict and to recruit them as combatants or on support duties.

126. Data collected at first hand by the Office itself confirm that guerrilla groups recruit children from the age of 12 upwards, either by persuasion or by making threats against their parents. Another phenomenon is the recruitment of the children of guerrillas from a very early age. 25/ Children as young as eight have been seen patrolling with paramilitary units.

127. The Office learned of cases in which members of the Army have held on their bases children handed over or captured from guerrilla groups, and used them to obtain information and patrol with their troops as guides. Such practices expose children to the risks inherent in military operations and to possible reprisals by guerrillas.

9. Use of anti-personnel mines

128. The armed forces estimate that Colombian guerrillas have laid some 50,000 anti-personnel mines throughout the country, many of them home-made, which have killed and injured not only members of the security forces, but also civilians, as they have been placed in areas inhabited or frequented by the civilian population.

129. The Colombian armed forces also continue to use these devices. They justify this as a strictly defensive measure and acknowledge that their installations are protected by some 20,000 anti-personnel mines. However, no strategy has yet been devised for destroying them.

130. On 29 October 1998, the Second Committee of the Senate of the Republic of Colombia approved at first reading the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (Ottawa Convention).

10. Attacks on civilian property

131. During 1998, numerous attacks against oil pipelines were carried out by guerrilla groups, particularly ELN, with serious consequences for the civilian population, given the danger involved in releasing a highly inflammable substance. 26/ The Office received complaints from the Colombian authorities that, in some instances, the oil spillages have damaged crops and polluted water sources.

132. The Colombia Office received many complaints about the security forces' practice of restricting overland or river transport of food, medical supplies and fuel in various areas of the country. The Government presented the Office with a written justification of these measures, stating that they were designed to cut off the supply of these items to the guerrillas.

V. FOLLOW-UP OF INTERNATIONAL RECOMMENDATIONS

133. The United Nations High Commissioner for Human Rights, the Commission on Human Rights, the Human Rights Committee, the Special Rapporteur on the question of torture, the Committee against Torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Committee on the Elimination of Racial Discrimination, the Committee for the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Representative of the Secretary-General on internally displaced persons and other United Nations bodies, mechanisms and agencies have submitted various observations and recommendations to the Colombian Government.

134. During her visit to Colombia in October 1998, the High Commissioner recommended that the Government should adopt a national human rights plan outlining government policy on human rights in accordance with what was agreed at the 1993 Vienna Conference. At the time this report was completed, no such plan had yet been presented.

135. During their joint visit to Colombia in October 1994, the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture both drew attention to the need to strengthen the ordinary justice system to make it universally more efficient, so that it would no longer be necessary to resort to special justice systems, such as the system of regional justice (see report E/CN.4/1995/111). In this connection, the Procurator General submitted to Congress drafts of a new Penal Code and a new Code of Criminal Procedure. The new draft Penal Code, which has still not been enacted, criminalizes genocide, enforced disappearance, torture, the killing of protected persons, hostage-taking, forced displacement and other acts against persons and property protected by international humanitarian law. However, the new draft Code of Criminal Procedure makes no provision for the amendment of habeas corpus to guarantee an effective remedy, particularly in cases of enforced disappearance.

136. During her visit to Colombia last October, the High Commissioner emphasized the importance of the instrument creating the Statute of the International Criminal Court adopted in Rome on 17 July 1998 and the advisability of Colombia joining the 40 or so countries which had already signed it. On 10 December, the Government signed the Statute and declared its intention of working for its ratification by Congress and promoting the necessary constitutional reforms.

137. Although various United Nations bodies, including the Commission on Human Rights itself, have recommended the reform of the Military Penal Code, this has not yet been approved by the legislature. The Office has submitted its observations regarding the fact that the current version of the draft does not meet international standards. The draft does not admit the principle that the ground of due obedience cannot be invoked in the case of orders which, if carried out, result in a violation of human rights or war crimes. The draft makes very limited provision for criminal indemnification (parte civil) in military criminal proceedings. It is also significant that the draft denies generals and admirals of the armed forces the right to review by a higher court as embodied in article 14, paragraph 5, of the International Covenant on Civil and Political Rights. The present Government has declared its intention of pressing for the reform of the Military Penal Code to conform with international instruments.

138. Various bodies have recommended that violations of human rights and crimes against humanity should be removed from the jurisdiction of the military courts and that those cases currently before military courts should be transferred to civil courts. In this connection, the Constitutional Court in 1995 issued a ruling that the ordinary courts alone were competent to try offences which did not have a clear, close and direct link with military service. This ruling has not always been followed. Although 468 cases have been transferred from the military criminal courts to the ordinary courts, a number of cases of serious violations of human rights remain within the

purview of the military justice system. Examples include the case of the massacre at Caloto in Valle del Cauca on 16 December 1991, for which President Samper recognized the Government's responsibility; the case against the Navy for the massacres in Barrancabermeja in 1992; and the enforced disappearance of Nydia Erika Bautista on 30 August 1987 in Bogotá.

139. The abolition of the regional justice system unanimously recommended by various human rights mechanisms is still pending, so that despite the urgency attached by the last Government to the bill abolishing it, the bill has not been debated in Congress. The present Government has declared its intention to abolish this system.

140. In order to combat impunity, it was recommended on a number of occasions that all human rights violations should be thoroughly investigated, the culprits punished and the victims duly compensated. Under Decree No. 2429 of 1 December 1998, a Special Committee to Expedite Investigations into Human Rights Violations was set up, comprising the Vice-President of the Republic, the Minister of the Interior, the Procurator-General and the Attorney-General. The Government announced that the Committee's meetings would be open to human rights NGOs and other individuals or entities with responsibilities, knowledge or information relating to the matters dealt with.

141. Regarding the right to personal security, it should be noted that no action has been taken on the recommendations made on a number of occasions by the Commission and the High Commissioner on the need to criminalize enforced disappearance in accordance with the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and the many drafts submitted over the years. The bill currently before Congress, although a step forward, is not fully in conformity with the United Nations Declaration as it does not take account of the stipulations regarding due obedience and the exclusion of military jurisdiction.

142. With regard to personal integrity, national legislation has not been brought into line with the requirements of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as recommended by the Committee against Torture (see 44/A51/44, para. 81). The Government has not taken effective measures to curb such practices.

143. Regarding internal displacement, a number of the recommendations made by the Secretary-General's Special Representative in 1994 are still relevant. The Special Representative recommended strengthening local systems for the protection and defence of human rights in order to prevent internal displacement. In 1998, the Commission, in the Chairman's statement, also recommended that the Government should adopt all necessary measures to protect the lives and physical integrity of internally displaced persons and guarantee the safety of organizations supporting them. The Government's efforts have proved grossly inadequate in that, not only have they failed to solve the problem, but the number of displacement victims has increased considerably, to the detriment of human rights.

144. Both the Human Rights Committee and the High Commissioner have recommended the adoption of special measures for the protection of human rights advocates to ensure that they are able to conduct their activities

without interference or unlawful hindrance. However, their lack of security continues to be a source of concern. The agreements adopted by human rights advocates, the Government and the monitoring bodies on 23 April 1998 have been partially implemented. The Attorney-General's review of the armed forces intelligence service reports on human rights advocates is still pending.

145. There have been many calls for action to disband paramilitary groups by apprehending, trying and punishing those who inspire, organize, lead, belong to, support and finance them. The authorities have issued public statements against such groups and a so-called "Search Corps" was formed to hunt down paramilitary members, but its composition and functions are such as to make it inoperative and ineffectual. Although the actual number of paramilitary members arrested was greater than in the previous year, this is offset by an increase in the number of paramilitary groups, the expansion of their activities and their strengthened organization. No significant military action has been taken against these groups.

146. No action has been taken either to curtail the activities of the Special Vigilante and Private Security Services (formerly known as CONVIVIR), despite repeated requests by the various United Nations mechanisms. The lack of transparency of these services and complaints about their links with paramilitary groups and their criminal activities continue to cause concern. The Superintendent of Vigilante and Private Security Groups failed to provide the Office with the requested information on the development, activities and monitoring of these services.

147. The Committee on Economic, Social and Cultural Rights issued a set of quite specific recommendations on the status of women, freedom of association and collective bargaining, education and housing, the situation of indigenous communities, displaced persons, the underprivileged, changes to the taxation system and other matters, many of which have met with no response. The Government's efforts have not been sufficient to ensure the full exercise of economic, social and cultural rights.

148. Despite recommendations addressed to the parties to the armed conflict, serious breaches of international humanitarian law have continued to occur. Far from ceasing, practices such as killings, attacks against the civilian population, hostage-taking, forced displacement and the recruitment of children have actually increased.

VI. CONCLUSIONS

149. The United Nations High Commissioner for Human Rights again thanks the Colombian Government and other national authorities for their continued support for the activities of the Office in Colombia. Those thanks also go to all sectors of Colombian society which have provided invaluable assistance to the Office and the international community, whose support has enabled the Office to continue its activities.

150. The High Commissioner is deeply concerned at the continued violence in Colombia, where violations of human rights and breaches of international humanitarian law, far from diminishing, have increased over the last 12 months. The violations of human rights are serious, gross and systematic.

Breaches of international humanitarian law are still being committed on a large scale throughout the country and attacks on the civilian population, killings, hostage-taking, forced displacement and the recruitment of children are on the increase.

151. The High Commissioner notes with the utmost concern the alarming level of impunity regarding violations of human rights and breaches of international humanitarian law. In this connection, she regrets the continued existence of norms and criteria whose application enables many members of the security forces to benefit from judgements motivated by partiality and indulgence. The fact that the military criminal courts deal with cases involving violations of human rights and war crimes is incompatible with international standards. The High Commissioner also regrets the failure to arrive at a legal definition of punishable acts committed by members of the armed forces and police, which can under no circumstances be considered as "offences related to their service" for the purposes of investigation and trial. She is concerned at the continued failure to comply in full with the Constitutional Court's ruling regarding the restrictive and limited nature of the exemption of members of the security forces from prosecution.

152. During 1998, most government initiatives to improve the human rights situation in Colombia led nowhere, as either they were not carried through or they were insufficient to bring about significant changes. The fact that it was an election year, in addition to the change of Government, impeded the continuity of the policies outlined by the previous administration. At the time this report was being drafted, the incoming Government had still not presented any human rights programme clarifying the new guidelines for government human rights policy. The Government has given an undertaking to use every means at its disposal to remedy the serious situation.

153. The Government of Colombia publicly acknowledged the positive and useful nature of proper and impartial monitoring of the human rights situation in the country and declared that it would maintain a policy open to the scrutiny of the human rights organizations and bodies of the international community. Accordingly, it would support the continuation of the activities of the Colombia Office for a further year. The High Commissioner regrets that many of the recommendations of the various United Nations mechanisms have still not been acted on, despite the fact that they are specific recommendations which have been reiterated for a number of years. During her visit to Colombia in October 1998, the High Commissioner emphasized the importance of those recommendations in improving the human rights situation, which is a universal concern.

154. The Government's planned fiscal changes and administrative reorganization were brought to a halt, as it was unclear which government offices would deal with the various aspects of human rights, making contacts difficult. This was particularly obvious in the case of displaced persons, where it is still not clear which will be the coordinating authority for dealing with this serious problem. The Government announced its intention of improving cooperation with the Office and putting its weight behind the Commission for Analysis and Advice on the Implementation of the

Recommendations of the International Human Rights Bodies, established by Presidential Decree No. 1290, which deals with the implementation of international recommendations on human rights.

155. The High Commissioner regrets the continued occurrence of procedural irregularities which have weakened the guarantees of due process. She points out that the negative characteristics of regional justice or "faceless justice", described in some detail in her previous report (E/CN.4/1998/16, paras. 125-132), have continued to restrict severely the rights of the accused and the action of their defence lawyers. She particularly deplores the fact that the period of applicability of Act No. 270 of 1996, stipulating that this system would not continue beyond 30 June 1999, has not been amended and that none of the bills providing for the early dismantling of the regional justice system was adopted in 1998.

156. The High Commissioner notes with concern that the prison situation in Colombia did not improve in 1998 and that the adoption of the "alternative sanction" scheme has failed to solve or even alleviate the problems of prison overcrowding. She notes that the widespread imposition of pre-trial detention by public prosecutors, combined with the effects of Act No. 288 of 1995 or the "Citizens' Safety Statute", which extends the application of custodial sentences to minor offences, are practices and mechanisms which detract from government responsibility in prison matters.

157. Also of concern is the fact that State officials implicated in killings, disappearances, torture and other atrocities continue to occupy their posts indefinitely. It is regretted that the repeated recommendations of various United Nations bodies that members of the armed forces and police currently before disciplinary or judicial bodies should be suspended from duty have not been acted on more often.

158. The High Commissioner is seriously concerned about the growth of paramilitary groups, whose violent activities have become the main source of human rights violations and war crimes, and at the blatant inadequacy of the measures adopted by the Colombian authorities to prevent their activities, combat them, disband them and bring their organizers and members to justice. She regrets the continued reliable evidence of the participation and complicity of members of the security forces in the crimes committed by these illegal armed groups.

159. The High Commissioner regrets that the authorities have not yet been able to achieve genuine recognition of the right of human rights advocates to conduct their activities freely and peacefully and deplores the fact that killings, threats and smear campaigns against persons engaged, individually or in groups, in protecting and promoting human rights continued in 1998.

160. The High Commissioner is deeply concerned at the dramatic increase in the number of internally displaced persons and the lack of effective measures to deal with this phenomenon. Also of concern are the serious violations of the physical integrity of displaced persons, particularly against their leaders and the organizations representing them. Furthermore, the High Commissioner regrets to note the continued violations of the rights of displaced persons to access to nutrition, health and housing.

161. The High Commissioner deplores the high level of violence against children in Colombia and the exploitation and deprivation to which many of them are subjected. She reiterates her rejection of the practice of "social cleansing" and expresses her concern at the high number of internally displaced minors and the situation of child workers, which does not conform to international provisions. She also rejects the deplorable practices of recruiting and abducting minors.

162. The High Commissioner regrets the continued discrimination and acts of violence against women. She is particularly concerned by the difficult situation of women in rural areas and the low level of representation of Colombian women in politics.

163. In spite of the Government's efforts, Colombia is far from achieving the full enjoyment of economic, social and cultural rights. The High Commissioner is also concerned by the large number of persons living in conditions of extreme poverty, who include the most vulnerable groups, such as peasants, indigenous and Afro-Colombian communities, women, children, juveniles and internally displaced persons.

VII. RECOMMENDATIONS

164. The United Nations High Commissioner for Human Rights, in accordance with the provisions of the Agreement establishing the Office in Colombia, and with the pronouncements, observations and recommendations made to the Colombian Government by the various United Nations organs, mechanisms and agencies monitoring the situation in Colombia, submits the following 17 recommendations:

Recommendation No. 1

165. The High Commissioner urges the Government to redouble its efforts to ensure the full and effective enjoyment of fundamental rights by the whole Colombian population, by formulating comprehensive policies, identifying priority areas, allocating adequate resources and adopting all necessary appropriate and effective measures. To that end, the High Commissioner recommends the adoption of a plan of action for human rights, which would lay the foundation for the genuine and effective promotion and protection of human rights.

Recommendation No. 2

166. The High Commissioner urges all parties to the conflict to fully and unconditionally abide by the norms of international humanitarian law. She urges combatants, in particular, to honour their obligation to protect persons not directly involved in hostilities and give up practices such as hostage-taking, attacks on the civilian population, killings and torture. She urges them to abide by the norms concerning the recruitment of minors and their participation in conflict-related activities.

Recommendation No. 3

167. The High Commissioner urges the Government, the other parties to the conflict and Colombian society to persevere with efforts to promote dialogues for a peace founded on respect for human rights. The Government is encouraged to continue to explore the most appropriate ways of attracting the attention and support of the international community in this respect.

Recommendation No. 4

168. The High Commissioner stresses the overriding importance of the right to life and accordingly calls on the Government and the parties to the conflict most strictly to protect and respect it. The Colombian Government should undertake and pursue investigations into all violations of the right to life, with a view to bringing the culprits to justice and duly compensating the victims, their relatives and their communities.

Recommendation No. 5

169. The High Commissioner reaffirms the obligation of the authorities in preventing internal displacement and attending to all the needs of displaced persons. It is stressed that displaced persons require effective measures to protect their lives, physical integrity, freedom and security and that the Government has an obligation to provide for their nutrition, medical care, housing, education, favourable conditions for their return and proper resettlement alternatives. The High Commissioner recommends the adoption of a comprehensive policy on displacement, the elements of which should be drawn up in accordance with the United Nations Guiding Principles on Internal Displacement.

Recommendation No. 6

170. The High Commissioner urges the authorities to carry out an effective policy for permanently disbanding paramilitary groups by apprehending, trying and punishing those who inspire, organize, lead, belong to, support and finance them. The Colombian Government is also urged to provide the Procurator-General of the Nation with the necessary means to take effective action against such groups throughout the country. The High Commissioner invites the Government to repeal the legislation establishing the Special Vigilante and Private Security Services, formerly known as "Convivir associations", in order to ensure that the State has proper control over the use of force and weapons. Until they are disbanded, the Government is urged to report transparently on the number of such services in existence, their activities and the control measures taken by the Government.

Recommendation No. 7

171. The High Commissioner reminds the Colombian authorities of the fundamental importance of the work and role of human rights advocates as recognized in the Declaration on the Rights and Responsibilities of Individuals, Groups and Organs to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/Res/53/144) adopted by the General Assembly on 9 December 1998. Accordingly, their activities should be

recognized, respected, protected and supported and, in particular, special security measures should be taken to protect their lives, integrity and freedom, and they should receive public support.

Recommendation No. 8

172. The High Commissioner urges the Colombian Government and monitoring bodies to suspend from duty public officials against whom there is reliable evidence of involvement in serious violations of human rights. In cases where such evidence is substantiated in disciplinary or judicial investigations, the Government is urged to dismiss such officials from the service as promptly as in the case of other unlawful conduct.

Recommendation No. 9

173. The High Commissioner reiterates to the Colombian Government the importance of adopting a law criminalizing enforced disappearance in accordance with the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance and invites the Colombian Government to ratify the 1994 Inter-American Convention on Forced Disappearance of Persons.

Recommendation No. 10

174. The High Commissioner reiterates to the Colombian Government the importance of reforming the present Military Penal Code and eliminating all provisions incompatible with relevant international norms and recommendations.

Recommendation No. 11

175. The High Commissioner reiterates to the Colombian Government the importance of restoring the conditions for impartial and public proceedings, guarantees of due process, the right to a defence and the presumption of innocence, which are not preserved in the present system of regional justice, and urges it not to continue postponing the abolition of that system. Any prolongation of the present system would be a failure to observe the provisions of international instruments to which the Colombian Government is bound by ratification. The authorities are urged to provide effective protection to members of the judiciary and witnesses. It is urged, in particular, to continue its support of the Human Rights Unit of the Office of the Procurator-General of the Nation.

Recommendation No. 12

176. The High Commissioner invites the Colombian Government to ratify the Statute of the International Criminal Court.

Recommendation No. 13

177. The High Commissioner invites the Colombian Government to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention).

Recommendation No. 14

178. The High Commissioner urges the Colombian Government to take the necessary measures to ensure the exercise of economic, social and cultural rights and accord priority to the gradual reduction of the conditions of inequality prevailing in Colombia. She also recommends that an evaluation be made of the effects of the policies of economic adjustment on the most vulnerable population groups, to ensure minimum conditions of quality of life.

Recommendation No. 15

179. The High Commissioner urges the Colombian Government to use all available resources in carrying out programmes for assistance to and protection of women, especially those in vulnerable situations, and to incorporate the gender perspective in all its national, departmental and local policies.

Recommendation No. 16

180. The High Commissioner reminds the Colombian Government of the need to improve and expand care and social rehabilitation activities and programmes for children in the most vulnerable situations in Colombian society. The Government is also urged to develop and implement programmes to create public awareness regarding the sexual abuse of minors, with a view to eradicating that practice, and to ensure the adoption of the reform of the Juvenile Code in conformity with the provisions of the Convention on the Rights of the Child.

Recommendation No. 17

181. The High Commissioner urges the Government in particular to implement the recommendations made by treaty bodies and special mechanisms of the United Nations Commission on Human Rights, as well as the recommendations made in this and the previous report, and to assume its responsibility in developing strategies and concrete measures to implement, execute or complement those recommendations.

Notes

1/ One example is the place known as "La Secreta", a ranch a few kilometres from the corregimiento of Pavarandó (Mutatá municipality, Antioquia). Since December 1997, the Office and government monitoring bodies have been receiving repeated complaints that this ranch is a camp where the paramilitaries are billeted and preparing their activities. The security forces never intervened, but the FARC attacked it in November 1998, when probably more than 30 persons were killed. Following the attack, the ACCU (Peasant Self-Defence Groups) acknowledged that the ranch served as a camp for its organization, as confirmed by the person in charge of the region, the commander of Army Brigade XVII.

2/ Including Victor Carranza, accused of being one of the country's most powerful paramilitary chiefs; the accused chief of finance of the ACCU,

Jacinto Alberto Soto Toro, who later managed to break out of jail; and Gustavo Adolfo Upegui, president of the Envigado Football Club (Antioquia), who was under investigation for kidnapping, paramilitary activities and drug trafficking and who is suspected of being the paramilitary chief of Medellín.

3/ According to figures from the data bank of the Standing Committee for the Protection of Human Rights, in the first nine months of 1998, there were 1,073 victims of "political murders", a figure which includes both extrajudicial executions and murders in breach of international humanitarian law.

4/ For the first half of 1998 alone, the Office of the People's Advocate reported 119 massacres causing a total of 679 victims. One third of the victims were in the department of Antioquia, followed by the departments of Santander, Cundinamarca, Meta, Valle, Bolivar and Putumayo. One particularly serious aspect of these large-scale murders is that, according to the Office of the People's Advocate, 81 of the massacres were publicly announced by the perpetrators, mostly paramilitary groups.

5/ According to figures from the data bank of the Standing Committee on Human Rights, 176 cases of enforced disappearance were recorded in Colombia in the first nine months of 1998.

6/ In August 1998, the Commander-in-Chief of the Army, General Mario Hugo Galán, submitted a positive conflict of jurisdiction to the Office of the Procurator-General of the Nation in the case of General Fernando Millán Pérez, who was summoned by a prosecutor in the proceedings to investigate the organization of a paramilitary group in the department of Santander. In November 1998, the Supreme Judicial Council settled the conflict by referring the Millán Pérez case to the military criminal courts.

7/ The Colombia Office presented the lack of security as grounds for requesting the transfer of Esteban Cancelado, a human rights advocate who had been detained since 16 April 1997, but the prison authorities did not grant the request. The transfer was finally obtained through an amparo decision by the Constitutional Court on 28 October 1998, which concludes that the "denial (by INPEC) is a violation of the fundamental rights to equality and life".

8/ In the cities, the poorest 10 per cent receives less than 2.2 per cent of total income, while the richest 10 per cent receives more than 39 per cent of total income. These data are taken from the 1998 Human Development Report for Colombia (IDHC), prepared by the Social Mission, the National Planning Department (DNP) and the United Nations Development Programme (UNDP).

9/ The rate of underemployment practically doubled from 12.2 per cent to 20.7 per cent between 1995 and 1998.

10/ According to UNICEF, 1.7 million children between the ages of 12 and 17 work and only 10 per cent are covered by social security. Over 50 per cent work full-time, to the detriment of their overall development.

11/ Twenty per cent aged between 7 and 11 years are not enrolled in primary school and 45 per cent aged between 12 and 17 years do not attend secondary school.

12/ Colombia ratified the Convention on the Elimination of All Forms of Discrimination against Women (19 January 1982) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (15 November 1996).

13/ According to the Forensic Medicine Institute, 83 per cent of the 11,219 cases reported in 1997 were against minors and some of the offences were committed in public institutions and hospitals.

14/ One example is the Emberá-Katio community in the area of the Urrá hydroelectric project, who, at the beginning of October 1998, obtained a court order temporarily halting the work, which was to flood more than 7,000 hectares of their land. On 11 November, the Constitutional Court issued a ruling which, while laying down a set of guarantees and benefits for the local indigenous population, also endorsed the project as such. Earlier, on 25 August, the indigenous leader Alonso Domicó had been murdered, presumably by members of a paramilitary group. Other leaders and advisers were forced to leave the area when death threats were made against them.

15/ In the municipality of Tierralta (Córdoba), a mass displacement of more than 4,000 persons occurred in March and June 1998, and in May 1996, some 4,500 persons were displaced. The municipality thus became one of the most affected by displacement in Colombia, second only to the municipality of Riosucio (Chocó). In addition, beginning in June 1998, the advance of the paramilitary forces on the south of Bolívar, combined with pressure from the guerrillas, resulted in a mass exodus of 8,000 peasants to Barrancabermeja (Santander), and the paramilitary offensive threatens to cause further mass movements to the large coastal towns. Furthermore, the intensified armed conflict in the south-east of the country has produced new flows of displaced persons to Villavicencio (Meta), and from Putumayo to Nariño, Cauca and Huila.

16/ According to CODHES investigations of the country, the main responsibility for forced displacement lies with the members of paramilitary groups, who have been identified as the culprits in 54 per cent of cases, followed by the guerrilla groups who are said to be responsible for 29 per cent of displacements. Members of the security forces are reportedly responsible for 6 per cent of cases. The main victims of both individual and group displacement are peasants and community and political leaders.

17/ This is true of the group of refugees in Panama, who were later repatriated to Bahía Cupica (Chocó). The Office wrote to the Government on numerous occasions drawing attention to the critical nutrition and security situation of these individuals, but no effective measures were taken.

18/ For example, on 28 April 1998, seven leaders of a group of displaced persons who had settled in El Pinal district outside Medellín, in the municipality of Bello (Antioquia), were abducted and later killed by

paramilitary forces. The displaced persons in the settlement of San José de Apartadó, Apartadó municipality (Antioquia), who declared themselves a Community of Peace on 23 March 1997, had 58 of their members killed.

19/ One of the most serious cases has occurred in the south of Bolívar, where displaced persons, after spending three months in Barrancabermeja, returned to their places of origin with a Government undertaking to provide for their safety, as stipulated in an agreement signed by the President of the Republic on 4 October 1998. Two of the leaders and another person involved in the exodus were abducted and subsequently hacked to pieces by a paramilitary group operating in San Pablo (Bolívar). The same group made death threats against all the leaders of the returnees. A paramilitary offensive was subsequently launched against the area, in the course of which a number of massacres took place, followed by further mass displacements.

20/ During the fighting which occurred in the early days of November 1998 in Mitú (Vaupés), FARC guerrillas killed six police officials after these had surrendered and also killed five civilians, whom they accused of supporting the creation of paramilitary groups.

21/ In their attacks on security forces in the municipalities of Mitú (Vaupés) and Miraflores (Guaviare), the FARC made use of hospitals and schools to support their military operations.

22/ On 11 December 1998, for example, the ELN carried out an attack on the offices of the National Highway Institute in Manizales, Caldas, killing one policeman and wounding five civilians.

23/ Thus in La Dorada (Putumayo), members of the FARC killed four health officials, which led the department's Sectional Health Service to suspend its activities. In the course of their attacks on the municipalities of Miraflores (Guaviare) and Mitú (Vaupés), the FARC occupied hospitals, and in the second case used the health facility as a base from which to fire gas cylinders against the police station. The guerrilla force has also made use of ambulances to transport its own fighters, and has looted pharmacies. On 16 July 1998, the ELN shot down the helicopter of the Health Service of the Department of Antioquia.

24/ On 28 May 1998, some armed members of a paramilitary group entered the hospital of Murindó (Antioquia) and took away the director and an employee of the hospital, whom they threatened to kill prior to releasing them.

25/ According to the Office of the People's Advocate, up to 30 per cent of some guerrilla units consists of children, while some paramilitary groups such as the AUC (United Self-defence Groups of Colombia) have actually increased their recruitment of children.

26/ On 18 October 1998, the attack on the Central Pipeline of Colombia in Machuca (Antioquia) caused the death of over 70 persons. Such attacks have also resulted in definite environmental consequences, which have not yet been studied in any detail.

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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the High Commissioner for Human Rights pursuant to paragraph 5 of General Assembly resolution 48/141

GE.99-11108 (E)

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Introduction

1. The present report is submitted pursuant to paragraph 5 of General Assembly resolution 48/141 in which the Assembly requested the High Commissioner to report annually to the Commission. During the last year, the High Commissioner has submitted reports to the Commission at its fifty-fourth session (E/CN.4/1998/122), the Economic and Social Council at its substantive session of 1998 (E/1998/84), and the General Assembly at its fifty-third session (A/53/36).

2. This report is intended to update prior reports, in particular the report to the General Assembly. It has a twofold aim: to provide the Commission on Human Rights with information on key areas of the human rights programme that are of particular interest to it, and to demonstrate the evolving orientations and trends in the Office of the High Commissioner (OHCHR), which can be summarized as follows:

(a) On the eve of the new millennium the policy orientations of the Office are being updated so as to set in place strategies designed to support the efforts of Governments and to promote practical regional and international cooperation for the promotion and protection of human rights. Particular attention is being given to national strategies and systems, the integration of human rights in all areas of endeavour, the development of a universal culture of respect for human rights through education and promotional activities, efforts for the protection of human rights, universal implementation of the rights of the child, promoting equality and combating discrimination, responding to emerging problems affecting the enjoyment of human rights, and harnessing the energies of new actors in the global quest to uphold respect for human rights;

(b) As the Office of the High Commissioner settles down from an extended process of restructuring and reform, emphasis is being laid on professionalism, and systems and quality control. The move to the Palais Wilson has engendered a shared sense of a new identity for the Office as it prepares for the challenges of the future;

(c) New approaches to financing and new personnel policies are being developed under the aegis of the Secretary-General to place the Office on sounder foundations;

(d) Collegial managerial institutions are in place and are functioning well. They include a Senior Policy Committee, a Management Board, a Project Review Committee, a Field Recruitment Committee, and an Advisory Panel on Personnel Issues;

(e) A coherent internal monitoring and evaluation system is also in place and in use;

(f) A project-oriented approach is being developed and a specialist in project formulation and implementation is on board who assists in the preparation of project documents and in the monitoring of their implementation;

(g) In the development of arrangements and policies to support field presences, workplans have been requested from each field presence or operation based on a standard format. A code of conduct has been distributed to all staff and personnel in the field. A task force meets weekly to support field presences and operations. A system of weekend duty officers has been instituted to be responsive to the needs of the field; evaluation missions are being sent to review field presences and operations, and all major field presences are being systematically audited. A full-time security coordinator reviews the security situations and arrangements in the countries of field presences and operations;

(h) Particular attention is being given to in-house seminars and training sessions, and a process of structured training of staff is being planned.

3. In short, the Office of the High Commissioner is gearing up for the challenges of the future with principled commitment, rational and efficient managerial practices, new methods, and renewed energy from its staff throughout - as will be seen in the ensuing sections.

I. DEALING WITH HUMAN RIGHTS VIOLATIONS

4. United Nations concern with human rights began in reaction to the horrors of the massive human rights violations associated with the Second World War. Establishing the machinery for dealing with human rights violations was perhaps the most difficult task of the United Nations and those mechanisms, notably the special procedures mandates, are relatively recent developments. Today, as a result of those mandates, the Commission on Human Rights has before it a wide range of information about violations in specific countries or territories and relating to some 20 serious thematic violations of human rights. These sources begin to provide a valuable basis for surveying the global situation of human rights.

5. In 1998 we commemorated the fiftieth anniversary of the Universal Declaration of Human Rights. Unfortunately, it was also a year that witnessed the systematic and brutal denial of basic human rights to large numbers of people in different parts of the world, emphasizing that we must still struggle to turn principle into effective action.

6. Deeply troubling were the massive executions and killings of people which have continued to take place in many countries. Armed conflict, for example, in the Democratic Republic of the Congo, the Republic of the Congo, Sierra Leone, Burundi and Angola and between Ethiopia and Eritrea have brought about widespread loss of life, maiming, torture and destruction. Pillaging and the destruction of the economic infrastructure deprived hundreds of thousands of the basic necessities of life. And acts of terror against defenceless civilians in Algeria have led to many deaths.

7. Ethnic strife in Kosovo has resulted in widespread executions of civilians reminiscent of prior "ethnic-cleansing" atrocities. Elsewhere, failure to respect the identity, culture and language of a minority Kurdish population has fed violent revolt and a violent response. In Afghanistan, widespread violence against the civilian population is combined, in certain

areas, with a systematic and at times extremely brutal denial of the human rights of women. Reports of massacres and executions from many other countries were received, including from Colombia. These conflicts also engender large-scale movements of refugees and displaced persons. In many cases, human rights defenders, trade unionists and journalists are specifically selected as targets for killing or torture. These are some examples of the more disturbing situations of strife and widespread human rights violations in the world today.

8. Extremely disturbing reports of the denial of the human rights to food, shelter, access to health care, work and an adequate standard of living were also received last year. The access to rights, be they civil and political or economic, social and cultural, by the poor, the excluded and the marginalized has never been easy, with Governments, in the developed and developing world alike, often preferring to respond to the pressures of the more powerful and articulate groups in society rather than to protect the rights of the generally silent and politically weak poor. But the situation in 1998 was particularly serious as the effects of the Asian economic crisis were felt first in that region, particularly in Indonesia, and spread to Russia and most recently to Latin America. The result was the fall into poverty of many hundreds of thousands, the inaccessibility of education for a growing number, all the attendant deprivations of poverty and an alarming rise in sectarian violence and discrimination. A direct impact of the economic crisis has been a dramatic increase in the sale of children for sexual exploitation and in the trafficking of women and children for forced prostitution.

9. Many of the most serious violations were foreseeable and it may be that effective international preventive action could have saved many thousands of lives. So, too, might much misery have been avoided, had the Governments and institutions concerned kept human rights in mind when dealing with the economic crisis. It is thus encouraging that the Security Council has been giving more and more attention to violations of basic norms of human rights and humanitarian law during conflict situations and that international financial bodies are beginning to consider the human rights consequences of their decisions. OHCHR is thus working closely with United Nations early warning efforts, is developing a memorandum of understanding with the Department of Peacekeeping Operations and will continue to make available information to members of the Security Council as it considers these matters. It has also contributed to the human rights aspects of discussions on the new international financial architecture and will seek to work more closely with international financial institutions on this subject.

10. The coming two years will see an increased focus on the particularly serious and, unfortunately, growing phenomena of racism, racial discrimination, xenophobia and intolerance as the international community addresses the challenges of combating racism through the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Often, these violations are at the root of or closely associated with the serious human rights violations described above.

11. In this context, an important area for attention is the new communications technologies, in particular computer networks such as the Internet which are being used to disseminate racist and xenophobic propaganda

throughout the world. The Internet enables people to communicate across the street or around the world instantly; the international community is concerned by the activity of various groups which have launched on-line hate propaganda or opened on-line forums to denigrate minorities, promote racism and xenophobia and identify potential recruits.

12. Violations of the human rights of indigenous peoples through discrimination and exclusion are particularly serious. Despite some positive measures, many indigenous people suffer below average health and life expectancy, have less access to education than the majority population, and are usually disadvantaged in employment. In certain cases, the cultures and languages of indigenous peoples are threatened by State policies. Further, manifestations of racism, xenophobia and related intolerance are often directed against members of minority groups whose racial, ethnic, religious, linguistic and cultural characteristics may differ from those of the rest of the population. Economic recession in developed countries has increased xenophobic attitudes and acts of violence towards migrant workers and members of their families, and a number of them have lost their jobs and found themselves stranded in the host States. The World Conference and its preparatory activities will provide opportunities to consider these and other important topics in the fight against racism.

13. The mandate of the High Commissioner set forth in Assembly resolution 48/141 calls upon her, inter alia, to promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights, including the right to development; to play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world; to engage in a dialogue with Governments in order to secure respect for human rights; to enhance international cooperation for the promotion and protection of human rights; and to coordinate human rights promotion and protection activities throughout the United Nations system.

14. In carrying out this aspect of the mandate, the High Commissioner intercedes when there is credible information that a human rights violation may be or has been committed, normally by entering into a dialogue with the concerned State or by issuing a public statement. Further, the Office of the High Commissioner for Human Rights is more and more engaged in human rights work at the grass-roots level through its field presences.

15. The High Commissioner also works in close cooperation with the special procedures system of the Commission on Human Rights. While the High Commissioner has joined, on a case-by-case basis, thematic or country-specific rapporteurs in taking joint urgent action, her primary role as High Commissioner is to develop and enhance the "front-line" work in the defence of human rights. In this regard, the High Commissioner has initiated a three-month multidisciplinary review of the special procedures system with the goal of improving its effectiveness.

16. The High Commissioner also plays an important role in ensuring that there is follow-up and implementation of the recommendations of special rapporteurs. In response to a request by the fourth meeting of special

rapporteurs/representatives, experts and chairpersons of working groups, OHCHR prepared for the fifth meeting a study on procedures for ensuring implementation of and follow-up to recommendations of special rapporteurs (E/CN.4/1999/3/Add.1). The High Commissioner has also followed with keen interest the review of the mechanisms of the Commission on Human Rights by its Bureau, an important aspect of which is the need to improve and enhance follow-up and implementation of recommendations by special rapporteurs. The High Commissioner will continue to liaise with the special rapporteurs on this issue.

International responsibility for human rights violations and violations of humanitarian law

17. Combating impunity on the international level for human rights violations and violations of international humanitarian law is an important element in preventing future serious violations and in responding to the right of victims to justice. A crucial step in this direction was the adoption last year of the Statute of the International Criminal Court. A rapid ratification of the Statute and its entry into force would do much to enforce the message that serious violators can no longer hide. The two existing international criminal courts, concerning the former Yugoslavia and Rwanda, are important first steps which merit support and full cooperation from all States. And it is encouraging to see that national jurisdiction over serious non-citizen violators is being asserted when the country of nationality appears unable to bring them to justice.

18. This year we commemorate the centennial year of the Hague conventions of 1899 and the fiftieth anniversary year of the adoption of the four Geneva Conventions of 12 August 1949 on the protection of victims of war. While the concern to limit unnecessary suffering during war can be traced back centuries and to many cultures and traditions around the world, the International Peace Conference held at The Hague in 1899 represents a landmark in the development of the laws of war, later termed the "international law of armed conflict", and the rise of modern international humanitarian law. These treaties, along with the two Additional Protocols to the Geneva Conventions adopted in 1977, lay down important precepts for protecting human beings in time of armed conflict.

19. This anniversary year will be the occasion for many activities aimed at strengthening this system including a campaign to support and provide substantive contributions to the United Nations Preparatory Commission for the International Criminal Court and for early entry into force of the Statute of the Court, and for encouraging closer cooperation between the fields of human rights and humanitarian law.

II. RIGHTS OF THE CHILD

20. Protecting the rights of the child has grown to be a major theme on the agenda of the Commission on Human Rights. The Commission considers such wide-ranging and important matters as the Convention on the Rights of the Child, issues relating to children in armed conflict, exploitation of child labour, sale and trafficking of children, child prostitution and child pornography, violence and discrimination against the girl child, and the

preparation of two optional protocols to the Convention on the Rights of the Child, one raising the age for recruitment of child soldiers and one on the sale of children.

Convention on the Rights of the Child

21. The Convention on the Rights of the Child is the cornerstone of United Nations activities to protect the rights of the child. The Convention is based on the interdependence and indivisibility of all human rights and thus protects the whole range of rights, civil, cultural, economic, political and social, and is founded on the principle of the best interest of the child and the child's right of participation. The almost universal ratification of the Convention makes it a particularly powerful tool for advancing the rights of the child. It has become the basis for a system-wide integrated approach to human rights and, through its implementation process, has had a considerable impact on the programmes of most United Nations agencies and bodies.

22. 1999 marks the tenth anniversary of the adoption of the Convention by the General Assembly. This occasion provides a welcome opportunity to reflect upon the impact this innovative instrument has had on children's lives and to highlight the achievements and challenges in translating the Convention into concrete action. The commemorative activities will hopefully lead to even more determined efforts to make implementation of the rights of the child all over the world a priority of all Governments, United Nations agencies, NGOs and civil society at large. Some main challenges remain to be faced, such as the suffering of children in armed conflict, or the situation of those affected by child labour. Current efforts of the Special Representative of the Secretary-General for children and armed conflict and the proposed ILO convention on the prohibition and immediate elimination of the worst forms of child labour will contribute to make this year a crucial one in emphasizing the importance of the universal implementation of the rights of the child.

23. In this framework, the Office of the High Commissioner and the Committee on the Rights of the Child have agreed to organize a two-day workshop during the twenty-second session of the Committee in September 1999 to assess the impact of the Convention after 10 years, both at the national and international level, and to design recommendations to strengthen its implementation in the future. Also in the context of the tenth anniversary of the Convention, a proposal has been made that the Commission during its fifty-fifth session organize a special interactive dialogue on children similar to the dialogue on the human rights of women which took place at its fifty-fourth session in 1998. Such a dialogue would enable the Commission to consider how best to strengthen the protection of the rights of the child in the next century. The OHCHR will support and facilitate the organization of such a dialogue.

Sale of children and trafficking

24. In 1998, the Special Rapporteur on the sale of children, child prostitution and child pornography focused her work upon the sale of children. The increased international attention being given to issues of sexual exploitation has heightened awareness of the extent to which children in so

many areas of the world are being sold both for sexual exploitation and for other purposes. It also brought to light the fact that in most cases where there is sale trafficking is also involved.

HIV/AIDS

25. On 5 October 1998, the Committee on the Rights of the Child held a discussion on children living in a world with HIV/AIDS. The discussion emphasized the interconnection between HIV/AIDS-related strategies and a rights-centred approach to the child. The need to make more and better use of existing international legal instruments in an effort to improve HIV/AIDS prevention and care for children was stressed, with specific reference to the International Guidelines on HIV/AIDS and Human Rights. On the basis of the general discussion, a set of recommendations was formulated by the Committee.

26. The Commission on Human Rights may wish to give the question of trafficking in children for purposes of sexual exploitation its close attention. It is an issue of increasing gravity which because of its transnational character requires strong international coordination and action. The issue of child soldiers also requires action. Most, if not all, the conflicts which ravage the world today involve children as combatants and victims in violation of the basic laws of human rights and humanity. This is unacceptable. The optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict should be agreed as soon as possible, preferably in this tenth anniversary year. Also, existing norms must be fully enforced. Arming children, directly or indirectly, should not be tolerated and those countries which are exporters of arms should ensure that they are not sent to countries which arm children in violation of international law.

III. GENDER AND THE HUMAN RIGHTS OF WOMEN

27. The Office of the High Commissioner for Human Rights continues to intensify its effort, in coordination with the Division for the Advancement of Women of the Secretariat, to integrate a gender perspective in all human rights activities and to help ensure that the human rights of women are included as an important element of all activities of the system. This is in line with agreed conclusions 1997/2, relating to gender mainstreaming throughout the United Nations system, adopted by the Economic and Social Council. A joint work plan for the Division and the Office has been agreed and submitted to both the Commission on the Status of Women and the Commission on Human Rights.

28. A mission statement on gender and the human rights of women is being finalized and will identify action at three levels: (a) the integration of a gender perspective into all aspects of the Office of the High Commissioner for Human Rights, with particular attention being paid to policy development, strategic planning and the setting of priorities and objectives; (b) the active and broad participation of women in all fields of United Nations human rights activity; and (c) the initiation of specific programmes, special projects and activities aiming at integrating gender and the human rights of women.

29. All training activities carried out as part of country projects under the OHCHR technical cooperation programme continue to include sessions on the human rights of women, with specific focus on concerns relevant to each professional group addressed by the training (judges, police officials, members of non-governmental organizations, government officials and others). Guidelines on gender and the human rights of women are also being developed.

30. The OHCHR will continue to pursue the integration of a gender perspective into all human rights mechanisms, activities and programmes of the United Nations system; foster knowledge and understanding on the incorporation of a gender perspective into human rights activities and programmes; invest in capacity-building at the regional and national levels in incorporating a gender perspective; and develop an information base on the situation of human rights of women.

IV. WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

31. In its resolution 52/111, the General Assembly decided to convene, not later than the year 2001, a World Conference on racism and racial discrimination, xenophobia and related intolerance. It designated the Commission on Human Rights to serve as the preparatory committee for the Conference. It also decided that when the agenda of the World Conference was decided upon, inter alia, the need to address in a comprehensive manner all forms of racism, racial discrimination, xenophobia and related contemporary forms of intolerance, would be taken into consideration. The World Conference would be action-oriented and focus on practical measures to eradicate such phenomena, including measures of prevention, education and protection, taking into full consideration the existing human rights instruments.

32. These decisions were reaffirmed by the Assembly in its resolution 53/132.

33. The Commission on Human Rights, for its part, in its resolution 1998/26, decided to create an open-ended working group of the Commission to meet during the fifty-fifth session in order to review and formulate proposals for consideration by the Commission and possible forwarding to the Preparatory Committee at its first session. The Commission also invited the Committee on the Elimination of Racial Discrimination, the Sub-Commission for the Prevention of Discrimination and Protection of Minorities and NGOs to participate fully in the preparations for the World Conference.

34. The preparations for the World Conference, and the Conference itself, are to be a priority of the Office of the High Commissioner in order to ensure that the best conditions are in place for the international community to meet this important challenge, hopefully through concrete and effective measures aimed at eliminating a pernicious phenomenon.

35. The Office intends to play a catalytic role in bringing together the activities of the United Nations and its specialized agencies in preparing for the World Conference. It will also act as a facilitator and an organizer of inter-agency activities as well as a supporter of initiatives of intergovernmental and non-governmental organizations and well-known

personalities with the view to promoting preparations for the Conference. It further intends to follow closely and coordinate meetings and other activities in preparation for the World Conference at national, regional and international levels, so that the outcome, the proposals and ideas resulting from these processes can be submitted to the Preparatory Committee. The Office, with the Department of Public Information, will also devise and implement a world information campaign aimed at sensitizing world public opinion on the objectives of the Conference.

36. In order to support the Commission in the best manner possible, OHCHR has set up a specialized team to assist in the preparatory process for the current session of the Commission. As a guide for the activities to be undertaken, the Office has also elaborated an internal plan of action for the World Conference.

37. In order to assist the Commission and to enable it to implement the decisions of the international community, the OHCHR would need adequate human and financial resources. The High Commissioner, therefore, takes this opportunity to launch an appeal to all States Members of the United Nations to help make the necessary resources available, to the Trust Fund for the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination in order that the activities being planned at the national, regional and international levels can be implemented.

V. RIGHT TO DEVELOPMENT

38. Considerable progress in realizing the right to development has been made since the adoption of the Declaration on the Right to Development in 1986. The follow-up mechanism established by the Commission on Human Rights at its fifty-fourth session has opened a new phase in the international community's endeavours to give practical meaning to all economic, social and cultural rights, including the right to development.

39. The United Nations system has assumed a particular responsibility in the promotion of sustainable human-oriented development. The coordinated follow-up to the United Nations conferences and summits has provided an instrumental inter-agency framework to that end. The right to development bridges conceptually the work of the development agencies and those of the human rights community. All the United Nations conferences held after the World Conference on Human Rights in 1993 have expressed the deep-rooted political will of Member States to use human rights as an important paradigm for their development agenda. Coordinated follow-up to these conferences has been based on an integrated approach, recognizing linkages between development and human rights that were highlighted at the ECOSOC coordination segment in July 1998.

40. The United Nations system is in the process of accepting the rights-based approach to development, which orients activities not simply in terms of human needs or of development requirements, but in terms of society's obligations to respond to the inalienable rights of individuals. In the relations between individuals and States, the rights-based approach introduces the notions of entitlement of the individual and accountability of the State. Entitlement and accountability are not conditional or relative but stem from

the legal force of human rights. The examples of UNICEF and, more recently, of UNDP show that the rights-based approach to development benefits both individuals and communities.

41. While the implementation of the right to development is the primary responsibility of Governments, they should not be left alone in coping with this task. In the age of globalization, international cooperation is gaining a particular weight and should also involve international and regional organizations, transnational corporations, NGOs and individuals. The United Nations has an important leadership role to play in forging new partnerships in this area.

42. It is of paramount importance that all actors recognize their own responsibility for the respect for and observance of human rights. In this context, the corporate sector is increasingly placing ethical commitments on its agenda with a view to adjusting its policies to take account of the human rights standards. This is an essential step, one which the international financial institutions are expected to support. The Office of the High Commissioner is therefore intensifying its cooperation with the corporate sector in order to further encourage the promotion and protection of human rights.

VI. TECHNICAL COOPERATION, NATIONAL STRATEGIES, NATIONAL INSTITUTIONS AND EDUCATION

43. Technical cooperation in the field of human rights is growing rapidly. This is due to the understanding that has emerged among Member States that building and strengthening national human rights capacities is one of the best ways to ensure the rule of law, promote sustainable development, prevent violations of human rights and avoid potential conflicts. During 1998, 49 technical cooperation projects were carried out, 10 at the global level, 8 at the regional level and 31 at the national level. For 1999, the technical cooperation programme will include activities ranging from needs-assessment missions, elaboration of and support for the implementation of national plans of action, establishing and/or strengthening of national human rights institutions, seminars, workshops and training activities, as well as the dissemination of human rights documentation. New requests for assistance have been received from several countries.

44. Technical cooperation is partly financed by the regular budget of the United Nations but extrabudgetary resources are indispensable if technical cooperation is to be provided, field activities supported and other endeavours carried out. A qualified fund-raising officer is being recruited to help mobilize adequate and predictable levels of funding, and to enhance contacts with donors.

45. Status reports on project activities and on the financial situation of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights are prepared quarterly and made available to Member States, other donor countries, and other partners to ensure maximum transparency and accountability in the management of technical cooperation.

46. The technical cooperation programme is carried out in close coordination and cooperation with other United Nations programmes and agencies. The ongoing dialogue with these partners enhances the efficiency and the effectiveness of the programme. Annex I contains more information on this programme.

A. National plans of action

47. The Vienna Declaration and Programme of Action called on States to consider the desirability of developing a national plan of action identifying steps to improve the promotion and protection of human rights. The Office of the High Commissioner for Human Rights has encouraged and supported State initiatives for the creation of national plans as a means of translating commitments to human rights into concrete steps for action. A number of countries, including Australia, Bolivia, Brazil, Ecuador, Indonesia, Latvia, Malawi, the Philippines, South Africa and Venezuela, have already developed such plans. The High Commissioner welcomes this progress and again invites States to seek the support of her Office in the development and implementation of comprehensive, effective and sustainable national action plans for the promotion and protection of human rights.

48. A number of initiatives, many of them region-specific, are currently under way to facilitate the process by which national plans are developed and implemented. These will include specialized programmes and workshops in the African, Asian-Pacific, European, Latin American and Caribbean regions. These workshops will bring together key stakeholders in order to facilitate a dialogue on national plans. They are designed to assist States in identifying strategies for the formulation and implementation of a comprehensive, effective and sustainable national plan which accurately reflects national priorities and concerns.

B. National human rights institutions

49. Independent national human rights institutions have a critical role to play in the implementation of international human rights standards at the national level. Accordingly, the High Commissioner has continued to place a high priority on this area. Activities of the Office in support of national institutions can be broadly divided into two areas: the provision of practical advice and assistance with regard to the establishment of new institutions and the strengthening of existing ones; and support to international and regional networks and meetings of national institutions. In relation to the first focus area, 1998 saw a considerable increase in the number of requests for assistance from Governments interested in establishing new national human rights institutions. In such cases, the Office of the High Commissioner was able to provide support, ranging from assistance with legislative drafting to the convening of national workshops to develop broad consensus on the functions and powers of the proposed institutions. A large number of requests for assistance were also received from existing national institutions. In a number of such cases, the Office, often in cooperation with UNDP, coordinated comprehensive programmes of assistance aimed at enhancing the capacities of the relevant institutions to discharge their functions.

50. The OHCHR has also been active, throughout 1998, in strengthening regional groupings of national institutions. The High Commissioner co-sponsored and attended the Second Conference of African National Institutions for the Promotion and Protection of Human Rights (Durban, South Africa, July 1998) and attended the first Meeting of Mediterranean National Institutions for the Promotion and Protection of Human Rights (Marrakesh, Morocco, April 1998). The Office also supported the third Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions (Jakarta, September, 1998). This cooperation will continue to include collaborative training programmes aimed at enhancing technical capacities of the national institutions of the region.

51. The OHCHR also provides support to the international Coordinating Committee of national institutions, which held its sixth meeting in Geneva on 2, 3 and 6 April 1998 in conjunction with the annual session of the Commission on Human Rights. The Coordinating Committee encourages and facilitates international coordination of activities among national institutions and is responsible for organizing the regular international workshops of national institutions. The Committee has recently expanded its membership to 16 national institutions and at present comprises four representatives from each of the four regional groups: Africa, Europe, the Americas and the Asian-Pacific region.

52. The rapid growth in the number of requests for assistance has placed heavy demands on the Office. In 1998 the High Commissioner, with the help of donors, was able to allocate additional personnel and resources to this area.

53. Additional information on the work of the Office in the area of national human rights institutions can be found in the relevant report of the Secretary-General to the Commission (E/CN.4/1999/95).

Workshop for the Asian-Pacific region

54. In March 1998 the Office organized in Tehran the sixth workshop on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region at which the Governments of the region adopted the Framework for Regional Technical Cooperation in the Asian and Pacific region designed to develop, inter alia:

National plans of action for the promotion and protection of human rights and the strengthening of national capacities;

Human rights education;

National institutions for the promotion and protection of human rights; and

Strategies for the realization of the right to development and economic, social and cultural rights.

Agreement was also reached on specific actions to be taken within the Framework for Regional Technical Cooperation.

55. Within this context, OHCHR organized the seventh workshop in New Delhi from 16 to 18 February 1999. The workshop reviewed the follow-up actions taken since Tehran and identified future action to be taken to facilitate the process of developing regional cooperation and possible regional arrangements for the promotion and protection of human rights. Twenty-nine government representatives from the region took part, together with the six national human rights commissions which are members of the Asia-Pacific Forum and non-governmental organizations in consultative status with ECOSOC from the Asian-Pacific region or with an interest in the region. In addition, subregional intergovernmental organizations were invited to participate.

56. The workshop welcomed the commitment of OHCHR to implement the Framework for Cooperation agreed at Tehran and noted the decision of OHCHR to appoint a regional human rights adviser. The workshop agreed upon a number of specific activities to be carried out over the next 12 months under three headings: national plans of action, human rights education, and national institutions. These include inter-sessional regional workshops on national plans of action on compliance with reporting obligations under international human rights standards, on best practices concerning national plans of action for human rights education, on national human rights institutions for countries interested in establishing such an institution, and on the implementation of the right to development and economic, social and cultural rights. It was also agreed to support two national institution workshops to be organized by the Asia-Pacific Forum during 1999 (one in Sri Lanka and one in the Philippines). A separate report on the outcome of the workshop has been submitted to the Commission on Human Rights at its present session (E/CN.4/1999/94).

C. Human rights education

57. Human rights education, training and public information continue to be priorities of the Office of the High Commissioner. The commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights provided an occasion to enhance activities in this area, as highlighted in the reports of the Secretary-General to the Commission on the implementation of the Plan of Action for the United Nations Decade for Human Rights Education (E/CN.4/1999/87) and on public information activities in the field of human rights (E/CN.4/1999/86).

58. The High Commissioner, in her role as Coordinator of the United Nations Decade for Human Rights Education (1995-2004), has continued to facilitate initiatives undertaken by all partners at the international, regional, national and local levels, such as various meetings devoted to the development of regional strategies for human rights education (three regional conferences have been organized by UNESCO between December 1998 and February 1999; an International Conference on Human Rights Education in the Asia-Pacific Region took place in Osaka in November 1998; and various non-governmental organizations have also undertaken activities).

59. At the national level, the High Commissioner is promoting the adoption of comprehensive (in terms of outreach), effective (in terms of educational strategies) and sustainable national plans of action for human rights education, in accordance with the Guidelines for national plans of action for

human rights education (A/52/469/Add.1 and Add.1/Corr.1). National plans of action for human rights education, which have been called for both by the General Assembly and the Commission, are intended to be an integral part of the national development plan (when applicable) and be complementary to other relevant national plans of action already defined (general human rights plans of action or those relating to women, children, minorities, indigenous peoples, etc.).

VII. FIELD PRESENCES

60. Improving the effectiveness of the work conducted through the field presences of the Office of the High Commissioner has been a special focus of the High Commissioner during 1998. The field operation in Rwanda was terminated at the request of the Government of Rwanda in July 1998. The High Commissioner has indicated the willingness of her Office to support, through workshops and other forms of technical cooperation, the establishment of an independent national human rights institution in Rwanda.

61. At present there are field presences in Burundi, Liberia, Malawi, Rwanda, Angola, the Democratic Republic of the Congo, South Africa, southern Africa, Togo, the Central African Republic, Cambodia, Gaza, Mongolia, Colombia, Guatemala, El Salvador, the Federal Republic of Yugoslavia, Croatia, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and Abkhazia, Georgia. Some of these presences are administered directly by OHCHR; others have been established through cooperative arrangements with the Department of Peacekeeping Operations or the Department of Political Affairs. Depending on their specific mandate, field presences implement technical cooperation programmes to support governmental and civil society institutions in strengthening their capacity for the promotion and protection of human rights, through training, legal assistance, expert advice, public education and other activities. They also monitor the general human rights situation through a process of information-gathering, investigating, documenting and reporting; provide support to special rapporteurs or representatives in implementing their mandates; liaise closely with other relevant United Nations agencies and programmes to facilitate an integrated United Nations approach to development, peace and human rights. Annex II contains more information on this subject.

VIII. CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANIZATIONS

62. The direct involvement of people, individually and through non-governmental organizations and other organs of civil society, is essential to solving the grave human rights problems of our time. The Universal Declaration placed the realization of the rights it proclaimed squarely in the hands of "every individual and every organ of society" and the history of human rights protection is the collective actions of individuals and organizations.

63. Last year, the NGO community played an important role in the commemoration of the fiftieth anniversary of the Universal Declaration and the five-year review of the Vienna Declaration and Programme of Action. An impressive number of events, activities and publications on human rights were connected with the fiftieth anniversary; many were grass-roots activities

undertaken by local organizations. For the five-year review, the NGO community organized several major conferences and submitted, through the report of the Secretary-General, extensive substantive information to the General Assembly. During the fifty-third session of the General Assembly, the High Commissioner convened a meeting of NGOs and interested government delegations to discuss those issues.

64. In its efforts to reach out to civil society, OHCHR is exploring avenues of cooperation with new partners. In particular, in the period under review, the Office has strengthened its cooperation with the Inter-Parliamentary Union with a view to associating parliaments throughout the world more effectively with human rights efforts at the international level. Clearly, members of parliament do play a leading role in the promotion and protection of human rights at the national level. However, far too often they remain unaware of the main developments and instruments at the international level. Accordingly, IPU and OHCHR are discussing possible areas of cooperation within the framework of the preparation of a memorandum of understanding between the two organizations. This would include, inter alia, ratification of the main human rights instruments, adoption of national plans of action, establishment and strengthening of independent national institutions, human rights education, identification of progress in the implementation of economic, social and cultural rights, technical cooperation and preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Human rights defenders

65. The General Assembly acknowledged the importance of the commitment of individuals, non-governmental organizations and other sectors of civil society to the protection of human rights by adopting the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms by its resolution 53/144. The Declaration commits Governments to ensure that persons in their country are free to promote and protect human rights without fear of persecution. At its present session, the Commission will be able to follow up on the implementation of that Declaration.

Human rights and the private sector

66. The growth in the private sector, the evolving role of Government and economic globalization have led to increased attention being paid to business enterprises as important actors in the human rights domain. In many ways business decisions can affect profoundly the dignity and rights of individuals and communities. Business is coming to recognize this and there are a growing number of activities in the business community to establish benchmarks, promote best practices and adopt codes of conduct. Governments retain the primary responsibility for human rights and it is not a question of asking business to fulfil the role of Government, but of asking business to promote human rights in its own sphere of competence. Corporations responsible for human rights violations must also be held to account.

67. The relationship between the United Nations and the business community has been growing in a number of important areas and the Secretary-General has

proposed to the leaders of the business community, individually through their firms and collectively through business associations, to embrace, support and enact a set of core values in the areas of human rights, labour standards and environmental practices. The Secretary-General has asked the relevant United Nations agencies, including OHCHR, to be ready to assist the private sector in incorporating those values and principles into mission statements and corporate practice. OHCHR is now examining the various ways of responding to corporate concern for human rights.

IX. FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND FIVE-YEAR REVIEW OF THE IMPLEMENTATION OF THE VIENNA DECLARATION AND PROGRAMME OF ACTION

A. Fiftieth anniversary

68. The final months of 1998 brought the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights to its culminating point. The incredible array of activities, programmes and events which took place throughout 1998 in all parts of the world left no doubt as to the extent to which the Declaration's message has been embraced and given renewed prominence worldwide. The activities undertaken to mark the anniversary by Governments, international and regional organizations and, most notably, by civil society at all levels - local, national, regional and international - have also provided clear evidence of a reinvigorated commitment to human rights as the common principles which should unite the international community as a new century begins. The task ahead is to build on the energy and dedication which the fiftieth anniversary prompted. The importance of using this occasion as a launching point for new actions to promote and protect human rights was a key element of messages which the High Commissioner delivered to a number of fiftieth anniversary forums.

69. Many commemorative events took place at the national and international levels, including at United Nations Headquarters. On 7 and 8 December, in the birthplace of the Universal Declaration, the Government of France and UNESCO organized "The Paris Meeting - Human Rights on the Eve of the 21st Century". Also on 8 December in Paris, the Human Rights Defenders Summit, organized by Amnesty International, International ATD Fourth World Movement, the International Federation of Human Rights Leagues and France Libertés brought together human rights advocates from all continents. From 8 to 10 December, in Washington D.C., the US Holocaust Museum organized a conference on "Genocide and Crimes against Humanity: Early Warning and Prevention" to mark both the fiftieth anniversary of the Universal Declaration of Human Rights and the Genocide Convention.

70. On 10 December, Human Rights Day, the General Assembly held a special commemorative meeting, addressed by the President of the General Assembly, the Secretary-General and the High Commissioner. That meeting featured the awarding of the 1998 Prizes in the Field of Human Rights. The winners of the 1998 awards were: Sunila Abeysekera (Sri Lanka), Angelina Acheng Atyam

(Uganda), Jimmy Carter (United States of America), José Gregori (Brazil) and Anna Sabatova (Czech Republic). A prize was also given in honour of all human rights defenders. 1/

71. The Assembly adopted resolution 53/168 on the fiftieth anniversary in which it declared its commitment to the fulfilment of the Declaration as a source of inspiration for the further promotion and protection of all human rights and fundamental freedoms - political, social, civil and cultural - including the right to development.

72. Among the commemorative events was the unveiling of the new section of the Website of the Office of the High Commissioner for Human Rights featuring the Universal Declaration of Human Rights translated into over 250 languages. The project was the result of a global cooperative effort and was a true representation of the Declaration's universal message.

B. Five-year review of the implementation of the Vienna Declaration and Programme of Action

73. The special human rights events of the last months of 1998 also included the final phase of the five-year implementation review of the Vienna Declaration and Programme of Action by the General Assembly. The Assembly's review was the culmination of a process which began during the fifty-fourth session of the Commission on Human Rights (see Commission resolution 1998/78) and was followed by a review of the United Nations system's contribution to the implementation of the Vienna Declaration and Programme of Action by the Economic and Social Council (see Council agreed conclusions 1998/2) during its 1998 coordination segment.

74. The overall review in the General Assembly was an opportunity for stock-taking and, on that basis, designing future action aimed at the further implementation of the Vienna Declaration and Programme of Action. Some 53 Governments responded to the invitation to send reports on the implementation at the national level, as had been envisaged by the World Conference in Vienna. The Assembly discussed the issue at three meetings. As mentioned, the High Commissioner convened a consultation to provide a framework for an exchange between Governments and the non-governmental community on the implementation of the Vienna Declaration and Programme of Action. In its resolution 53/166, the Assembly solemnly declared its commitment to the fulfilment of the Vienna Declaration and Programme of Action. It also called for the full implementation of the ECOSOC agreed conclusions 1998/2 on the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action, and reaffirmed that the Vienna Declaration and Programme of Action continued to constitute a solid foundation for international human rights efforts.

1/ The statements by the Secretary-General and the High Commissioner and more information on the 1998 recipients can be found on the Website of the Office of the High Commissioner for Human Rights or in UN Press Release SG/98/11 of 10 December 1998.

75. It is noteworthy that ECOSOC, on the basis of a special report of the Secretary-General (E/1998/60), devoted its coordination segment to the "Coordination of the policies and activities of the specialized agencies and other bodies of the United Nations system related to the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action". The review was enriched significantly by the participation of partners in the United Nations system, many of whom took part in the inter-agency process carried out during 1997 and 1998. Their reports provided many examples of diverse activities which contribute to the implementation of the recommendations made by the World Conference and highlighted the ongoing commitment to strengthening the role of human rights throughout the United Nations system, as called for in the Secretary-General's Programme for Reform.

76. Agreed conclusions 1998/2, the implementation of which will be reported on to the Council at its next session, not only confirms the growing involvement on the part of the United Nations system in activities relevant to human rights, but also offers important guidance for the years to come for efforts to achieve a system-wide approach to human rights.

77. As the High Commissioner pointed out in her final report on the "Vienna+5" review (A/53/372, annex), one can note a number of positive developments over the five years since the World Conference on Human Rights, including the advancement of human rights on national and international agendas; human rights-oriented changes in national legislation; enhancement of national human rights capacities, including the establishment or strengthening of national human rights institutions; special protection extended to women, children and vulnerable groups, among others; and further strengthening of the human rights movement worldwide.

78. In her report the High Commissioner also noted areas in which substantial progress would need to be made in order to fully implement the Vienna Declaration and Programme of Action. The following general points were emphasized in this regard: strengthening the implementation of human rights at the national level; adapting the United Nations human rights machinery to current and future needs; taking determined action to create a favourable environment for human rights and human development including common efforts to eradicate extreme poverty; developing an effective approach to preventing human rights violations; enhancing efforts to develop a culture of human rights through, inter alia, human rights education; and improvement of conditions for the activities of non-governmental organizations and civil society at large.

X. STRENGTHENING UNITED NATIONS MACHINERY FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

79. The adaptation and strengthening of United Nations machinery for human rights was a main objective of the World Conference on Human Rights. The Commission on Human Rights took an important step in that direction at its last session by updating and streamlining its agenda and launching a review process aimed at enhancing the effectiveness of the human rights machinery.

The Bureau of the Commission has been considering this question and has prepared a thoughtful report (E/CN.4/1999/104) which is before the present session of the Commission.

80. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, the annual meeting of special rapporteurs/representatives, experts and chairpersons of working groups and the meeting of chairpersons of human rights treaty bodies have all made contributions to this process.

81. The meetings of the chairpersons of the treaty bodies have become an increasingly important forum in which they can share their views and experiences, coordinate activities among the treaty bodies, as appropriate, and examine innovative ideas for improving the functioning of the treaty bodies. As of this year, the meeting of chairpersons will be scheduled to coincide with the annual meeting of special rapporteurs, as a measure to facilitate formal and informal contacts between the two groups of independent experts. The chairpersons have also used the occasion of their annual meeting to meet informally with representatives of States parties, which has allowed them to gain further insight into the implications of their work from the perspective of States parties. Such informal consultations are now a regular part of the meeting.

82. The senior staff structure of the Office of the High Commissioner is now in place with the appointment by the Secretary-General of Mr. B.G. Ramcharan as Deputy High Commissioner. Two retreats of senior officials were held in order to prepare a vision of the work of the Office and set out strategic aims which would enable the programme to achieve the objectives set for it in the medium-term plan. The most recent retreat agreed on a mission statement for the Office of the High Commissioner for Human Rights as follows:

> "To spearhead efforts of people worldwide in the promotion and protection of human rights so that everyone can live in a society shaped and governed in the image of the international human rights standards agreed upon by the United Nations."

83. The Office of the High Commissioner for Human Rights has continued to support the inclusion of human rights in the four core areas of United Nations activities. The High Commissioner is a member of the Executive Committee on Economic and Social Affairs, the Executive Committee on Peace and Security, the Executive Committee on Humanitarian Affairs and the United Nations Development Group (UNDG). OHCHR is convenor of the Working Group on the Right to Development of the UNDG. The Office has participated throughout the year in meetings of the Executive Committees, the High Commissioner herself attending whenever possible. This year OHCHR is looking forward to enhancing its participation in the Committees. In the Executive Committee on Peace and Security, the Task Force on the Integration of Human Rights into Conflict Prevention, Peacemaking, Peacekeeping and Peace-Building is of particular importance. It adopted an important set of guidelines in October 1998.

84. The High Commissioner is a member of the Senior Management Group of the United Nations which meets weekly under the chairmanship of the Secretary-General. The High Commissioner participates by teleconference from Geneva or personally when in New York.

XI. CONCLUSION

85. The United Nations human rights programme is growing in breadth and complexity as are the challenges facing the effective implementation of the mandate of the High Commissioner for Human Rights. In the 50 years since the Universal Declaration was adopted, the effective implementation of human rights has become a priority concern for individuals, civil society and the international community and is seen as a defining responsibility of the State. Within the United Nations, human rights is an issue of growing importance cutting across all areas of the Organization's responsibilities. There are growing demands that the international financial, trade and development architecture justify itself in terms of its benefits to human beings, how it advances their rights, in addition to purely technical criteria.

86. The gap between human rights rhetoric and the reality of the lives of millions of human beings is the tragedy of our times. Genocide and mass killings are still part of our world and over 1 billion of our fellow human beings are denied the basic material elements of life - food, shelter, and access to health care. Similar large numbers are denied access to basic education and many are persecuted because of their race, religion or ethnic origin. Torture and arbitrary executions are commonplace and democratic participation in Government is denied to millions as corruption undermines the integrity of Government and the rule of law. And as foreshadowed in the Universal Declaration, rebellion beckons many who are subjected to tyranny and oppression.

87. These are not the only challenges to human rights. Scientific and technological developments in fields such as genetics, human cloning and biotechnology are posing fundamental questions about our understanding of human rights.

88. The United Nations and the other organs of the international community have much to contribute to overcoming the obstacles to enjoyment of human rights. However, the principal responsibility is at the national level, with Governments, civil society and individuals. There are a number of concrete objectives at which Governments can aim and the Commission on Human Rights is the ideal forum for encouraging action and monitoring progress on their achievement. These objectives, set out in a letter to all Governments sent by the Secretary-General and the High Commissioner on the occasion of the fiftieth anniversary of the Universal Declaration, are as follows:

> All States have signed and ratified the International Covenants on Human Rights and the four principal human rights conventions;
>
> All States have made the Universal Declaration of Human Rights known to every citizen, beginning by introducing it into the primary school curriculum;
>
> All States have implemented the "Declaration on Human Rights Defenders" in the true spirit of support for defenders of human rights everywhere;
>
> All States have redoubled their efforts to implement the 30 articles of the Universal Declaration in full.

Annex I

INTERNATIONAL COOPERATION FOR HUMAN RIGHTS IN ACTION: EVOLVING POLICIES OF TECHNICAL COOPERATION

I. DEFINITIONS

Purpose

1. The purpose of the OHCHR technical cooperation programme is to assist countries - including Governments and civil society - in promoting and protecting all human rights at the national and regional levels, through the incorporation of international human rights standards in national laws, policies and practices, and building a sustainable national capacity to implement these standards and ensure respect for human rights.

Scope and means

2. Components of the technical cooperation programme include development of national plans of action for human rights; assistance for legislative reform; electoral assistance; support to national human rights institutions established in accordance with the Paris Principles; assistance in the areas of administration of justice, the military, parliaments and treaty reporting; human rights education, information and documentation; strengthening of non-governmental organizations; promotion of economic, social and cultural rights and of women's rights.

3. Assistance provided by OHCHR takes the form of assessment of domestic human rights needs; expert advisory services; training courses, workshops and seminars; fellowships and grants; provision of information and documentation.

Normative basis

4. Technical cooperation activities are based on international human rights standards as defined in the instruments adopted within the United Nations and on international practice in applying them in all regions of the world, giving balanced attention to civil, cultural, economic, political and social rights.

Complementarity with other United Nations human rights mechanisms

5. Technical cooperation is one of the means available to the United Nations human rights programme in the pursuit of increased respect for human rights. Technical cooperation does not exempt Governments from monitoring mechanisms or procedures established by policy-making bodies. Rather, technical cooperation activities can complement, but never substitute for the monitoring and fact-finding activities of the United Nations human rights programme. Indeed, technical cooperation may contribute to the implementation of recommendations made by elements of the programme, including the human rights treaty bodies.

Voluntary character

6. Technical cooperation programmes, like all United Nations programmes of this kind, are carried out at the request or with the consent of the Governments concerned.

System-wide approach

7. A policy of enhanced collaboration with other key United Nations actors is being pursued in the implementation of technical cooperation activities, with a view to maximizing their impact and the use of United Nations resources. Close cooperation in the formulation and implementation of projects is particularly significant with UNDP, owing in particular to the memorandum of understanding in force between the two agencies.

Integration into national development objectives

8. Technical cooperation programmes are grounded in the national development objectives of the countries concerned and aim at supporting the achievement of national development goals, programmes and policies, in accordance with international human rights standards. Existing national human rights expertise is relied upon in all phases of technical cooperation programmes, from project definition to implementation and evaluation.

Participatory approach

9. Technical cooperation programmes are formulated and implemented with the broadest possible participation of all elements of national societies, including civil society and national institutions established in accordance with the Paris Principles, in addition to the judicial, legislative and executive branches of Government.

Needs assessment

10. Technical cooperation programmes are developed based on a technical assessment of the human rights needs of the requesting country. This is normally conducted by means of a mission to the country by OHCHR staff, and through a process of broad consultations with governmental and non-governmental organizations and individuals, as well as with United Nations agencies and programmes operating in the country.

Methodology

11. Technical cooperation projects are based on a methodology which include needs assessment, project formulation based on the Logical Framework method, management and implementation, monitoring and evaluation.

Programme priorities

12. In making decisions on project proposals and on the use of available resources, priority is given to projects to be implemented in countries in transition and least developed countries, projects corresponding to national development objectives and integrated into broader United Nations strategies

in the country concerned, projects which facilitate broad participation of all elements of society and which offer sustainable institution-building benefits. The country's firm commitment to improving the promotion and protection of human rights and the acceptance of the programme methodology are also elements which are considered in making a decision.

II. ADMINISTRATIVE ASPECTS

Funding

13. OHCHR technical cooperation activities are funded mainly through the United Nations regular budget and/or the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights. Other extrabudgetary sources, and co-funding arrangements with other United Nations agencies and programmes, can also in some cases be used for such activities.

Procedure

14. Technical cooperation programmes are developed and implemented through an established procedure, which includes the following phases:

(a) **Request**. Technical cooperation projects are initiated by a formal request addressed by the Government concerned to the Office of the High Commissioner for Human Rights or - less frequently - by a request by a United Nations policy-making body that OHCHR engages in technical cooperation in a certain country;

(b) **Decision to assess needs**. Following receipt of a request, a decision is taken by the OHCHR Senior Policy Committee, based on programme priorities and resources, whether to launch the process which may lead to the formulation of a technical cooperation programme;

(c) **Needs-assessment mission**. Following a positive decision by the Senior Policy Committee, preparatory research on the country concerned is conducted based on in-house information, including relevant recommendations by United Nations bodies and mechanisms, and available external information. A needs-assessment mission is then fielded to the requesting country to define priority areas for human rights assistance in the legal, institutional and educational areas with a view to improving national promotion and protection of human rights. During such missions, assessment teams meet with all interested parties, both governmental and non-governmental, and United Nations and other agencies engaged in human rights-related areas, and collect all available relevant documentation and legislation. The mission is followed by the compilation of collected data in a report, which also contains an analysis and assessment of the needs identified and proposals for action. Thorough needs assessment is essential for the formulation of technical cooperation programmes, which are tailored to the specific needs of the requesting country and relevant to their specific human rights problems;

(d) **Project formulation**. Following the needs-assessment mission, a technical cooperation project is formulated based on the priorities identified and taking into account the availability of adequate resources. If additional information is necessary, or if further discussions are needed to refine the

project strategy, a project formulation mission may take place. Projects are based on the standard Logical Framework method for project formulation, based on a clear identification of the country's human rights context and background; the human rights needs/problems to be addressed; solutions offered by the project; target beneficiaries (direct and indirect); long-term and immediate objectives, outputs, activities, inputs and risks;

(e) **Internal appraisal**. Projects formulated following needs-assessment missions are subject to an internal appraisal by the newly established OHCHR Project Review Committee;

(f) **External appraisal**. Projects are also subject to an external appraisal by the Board of Trustees of the Voluntary Fund for Technical Cooperation;

(g) **Approval**. Final approval rests with the High Commissioner, for OHCHR, and the Government concerned, and is formalized through the signature of the project document;

(h) **Implementation**. Projects are implemented by OHCHR, including through the fielding of project teams and through a series of short-term missions from Geneva. Administrative backstopping is provided by the United Nations Office at Geneva, the United Nations Office for Project Services or UNDP, as appropriate;

(i) **Monitoring**. Progress in project implementation is assessed on an ongoing basis and through project-monitoring missions involving broad consultations with all national counterparts. Project monitoring is necessary to assess the continuing relevance of the strategy pursued through the project to the country concerned, and to ensure that any adjustment which is needed to meet the country's human rights needs is made;

(j) **Evaluation**. All projects are subject to independent mid-term and final evaluation, as relevant. Project evaluation aims at assessing the impact of the project on the human rights situation of the country concerned, with specific regard to the sectors and problems addressed by the project.

Staff training

15. Core technical cooperation staff have undergone formal training in project design and management, and additional training activities for staff responsible for technical cooperation activities are planned for 1999. Internal briefings are also being organized.

Annex II

OHCHR FIELD PRESENCES/OPERATIONS

Introduction

1. Historically, the pillars of the human rights and humanitarian law movements have included norms, research, promotion, dissemination, advisory services, fact-finding, and fostering of national strategies, institutions and systems.

2. In the post-1945 period, gross violations of human rights have claimed as many victims as wars. Today, internal conflicts proliferate with devastating consequences for human rights. Some 55 countries are in the grip of such conflicts.

3. In response, the human rights movement is in the process of erecting a new pillar to support its work: field operations in situations of conflict and in post-conflict peace-building situations. A complementary effort is promotion of national plans and institutions for the promotion and protection of human rights, which will be backstopped by the International Criminal Court.

4. Today OHCHR has field operations or presences in 20 countries; altogether, there are major technical assistance projects in some 40 countries: (i) monitoring cum technical cooperation presences in Burundi, Cambodia, Colombia, Bosnia and Herzegovina, Croatia, the Democratic Republic of the Congo and Yugoslavia; (ii) cooperative presences with DPKO/DPA in Angola, the Central African Republic, Liberia, Sierra Leone and Abkhazia, Georgia; (iii) technical cooperation presences in Malawi, South Africa, southern Africa (Southern African Development Community), Togo, Gaza, Mongolia, Guatemala and El Salvador. There is a total of 260 international and national staff in the field presences. The components with DPKO and DPA are financed mainly from the regular budget, as is the Cambodian operation; OHCHR raises funds for the others, which in 1999 will entail expenditures of $23.5 million.

5. The goal of human rights field operations that is in the process of definition indicates thus far that, with respect to the three areas of activity (crisis, conflict and post-conflict peace-building):

(a) OHCHR presences/operations contribute to efforts for conflict prevention, assist Governments to strengthen their national capacity to dealing with situations of human rights violations, integrate human rights into development and other activities of the United Nations system, raise human rights awareness among the population and support civil society and NGOs;

(b) In coordination with humanitarian agencies, the ICRC and other actors, field operations help mitigate the suffering of the victims of human rights violations, advise Governments on the implementation of international

human rights standards, raise awareness among the civil society and NGOs, and contribute, in coordination with other United Nations departments and agencies, to planning for peace-building;

(c) OHCHR field presences support the consolidation of peace and reconciliation by assisting Governments in meeting their obligations under human rights treaties; strengthening national capacity-building through the development of effective human rights institutions; designing strategies for the elaboration of holistic human rights policies taking into consideration the specific needs of women, children, indigenous peoples and other groups; contributing to the restoration of the rule of law by training NGOs, civil society and law enforcement agents.

6. A summary of the activities of the 20 OHCHR field presences is given in the following section:

I. ACTIVITIES OF OHCHR FIELD PRESENCES

Burundi

7. The multifaceted role of OHCHR-Burundi is to: (a) support the peace and reconciliation process by contributing to the restoration of the rule of law, to ending impunity and to the strengthening of the human rights capacity of civil society; (b) monitor the human rights situation and investigate violations of human rights, ensure proper follow-up and make recommendations to the authorities; (c) facilitate the participation of international advocates for the defence of detainees and civilian parties in trials stemming from the events of 1993; and (d) prevent by its presence further violations of human rights, and mitigate the effects of suffering due to the crisis and ongoing conflict.

Democratic Republic of the Congo

8. The OHCHR office in the Democratic Republic of the Congo was established in December 1996 following the signing of an agreement with the Government of the former Zaire providing for the deployment of two human rights officers to Kinshasa. The office's mandate is to: (a) monitor the human rights situation; (b) advise the governmental authorities on the implementation of international human rights standards; and (c) provide assistance to local NGOs.

Cambodia

9. OHCHR-Cambodia has been operating since 1993 based on a specific mandate from the Commission on Human Rights. In addition, the office's activities are currently based on a memorandum of understanding between the Government and the High Commissioner for Human Rights which was renewed in early 1998. With the Commission's guidance, the office's work focuses on: (a) managing the implementation of educational and technical assistance and advisory services programmes; (b) assisting the Government of Cambodia in meeting its obligations under the human rights instruments to which it has acceded, including the preparation of reports to the treaty bodies; (c) providing support to bona fide human rights groups in Cambodia; (d) contributing to the

creation and/or strengthening of national institutions for the promotion and protection of human rights; (e) assisting with the drafting and implementation of legislation to promote and protect human rights; and (f) assisting with the training of persons responsible for the administration of justice. In addition, the office provides support to the Special Representative of the Secretary-General for human rights in Cambodia in maintaining contact with the Government and people of Cambodia and assisting the Government in the promotion and protection of human rights.

Colombia

10. The role of OHCHR-Colombia is: (a) to observe the human rights situation with a view to advising the Colombian authorities on the formulation and implementation of policies, programmes and measures to promote and protect human rights; (b) to advise the representatives of civil society, non-governmental human rights organizations and individuals on matters within its competence; and (c) to ensure that the recommendations and decisions of United Nations bodies are duly taken into account by government agencies with relevant duties and responsibilities, and to advise them on the adoption of specific implementation measures.

Bosnia and Herzegovina

11. The role of OHCHR's office in Bosnia and Herzegovina is: (a) to mainstream human rights in all on-site activities of the United Nations system; (b) to assist the parties in realizing their commitment to secure to all persons within their jurisdiction the highest level of internationally recognized human rights, as required by the Dayton Agreement; (c) to support the work of the lead agency for civilian implementation of the Dayton Agreement, the Office of the High Representative, in its activities in the field of human rights; and (d) to support the mandates of the Special Rapporteur and the High Commissioner for Human Rights by providing information, analyses and recommendations for action.

Croatia

12. The office has the double role of working with the Government of Croatia to ensure the highest level of respect for the human rights of all Croatians, in accordance with Croatia's international obligations, and supporting the mandates of the Special Rapporteur and the High Commissioner for Human Rights by providing information, analyses and recommendations for action.

Federal Republic of Yugoslavia

13. The office is mandated to promote cooperation between the Government and the High Commissioner for Human Rights pursuant to General Assembly resolution 48/141; to further the mandate of the Office of the High Commissioner; to promote the observance of human rights in the Federal Republic in places such as Kosovo; to act as a focal point for human rights-related concerns, working with other international actors, in accordance with the High Commissioner's mandate as set out in resolution 48/141; to support the mandates of the Special Rapporteur and the High Commissioner by providing information, analyses and recommendations for

action; and to play a role in formulating and presenting recommendations for improving respect for human rights in the Federal Republic, including with respect to the establishment of a human rights infrastructure.

Angola

14. The role of the Human Rights Division of the United Nations Observer Mission for Angola is to contribute to the peace process by: (a) raising human rights awareness in the country; (b) documenting the human rights situation during the difficult period of the reinstatement of the Government's administration in UNITA-occupied areas; (c) assisting the Government in reinforcing the justice system and the police; (d) strengthening civil society by promoting the activities of NGOs, building their human rights capacity and creating a stronger network.

Central African Republic

15. The mandate of the human rights component of the United Nations Mission in the Central African Republic (MINURCA) is to: (a) provide, as requested by the Government, advice to the national authorities and organizations on human rights issues; (b) identify technical assistance needs for capacity-building in this area. The component is to coordinate with and seek guidance from OHCHR. MINURCA's mandate has been extended to June 1999.

Liberia

16. The United Nations office in Liberia subsumed, in 1997, the United Nations Observer Mission in Liberia. UNOL is mandated, in post-elections Liberia, to help consolidate the peace and prevent a relapse into conflict; facilitate the provision of technical assistance and support by the United Nations system for reconciliation efforts and the establishment of democratic institutions; and facilitate communications between the Government of Liberia and the United Nations on matters relating to peace-building objectives. With specific regard to human rights, UNOL's work focuses on the promotion of human rights amongst both governmental institutions and civil society. Following the Camp Johnson Road incident in September 1998, UNOL's operational capacity has seriously diminished. UNOL human rights staff have been actively monitoring the treason trials and the courts-martial resulting from the Camp Johnson Road incident.

Sierra Leone

17. The Human Rights Unit of the United Nations Observer Mission in Sierra Leone (UNOMSIL) is responsible for the implementation of UNOMSIL's human rights mandate, as defined by the Security Council in 1998. This includes, *inter alia*, reporting on the violations of international humanitarian law and human rights and assisting the Government of Sierra Leone in its efforts to address human rights needs.

Abkhazia, Georgia

18. The OHCHR office in Abkhazia, Georgia, was authorized by the Security Council in October 1996. The role of the Office is to: (a) report

on human rights; (b) promote respect for human rights through advisory services and technical cooperation; (c) contribute to the safe return of internally displaced persons and refugees.

Malawi

19. OHCHR-Malawi is responsible for carrying out a technical cooperation programme which commenced in 1996 and has its basis in the 1994 Joint Declaration on technical cooperation in the field of human rights signed by the First Vice-President of Malawi and the High Commissioner for Human Rights. The programme aims at assisting the Government to develop and implement activities aimed at consolidating the democratic process and the establishment of a human rights institutional infrastructure.

South Africa

20. OHCHR's office in South Africa is responsible for carrying out technical cooperation activities based on a broad programme agreed with the Government in 1997. The office is supporting key governmental and civil society institutions, including the Human Rights Commission, the Justice College, the Ministry of Justice, the Commission on Restitution of Land Rights and the Ministry of Safety and Security, in order to develop their capacity for planning, implementing, managing and evaluating policies, strategies and training programmes for the promotion and protection of human rights, coordinating external assistance and developing policies and plans of action in the area of affirmative action. The office played an important role in facilitating the development of a comprehensive national plan of action on human rights through a nationwide consultative process. A key feature of the programme is its important focus on economic, social and cultural rights through activities in support of developing a rights-oriented approach to land reform.

Southern Africa

21. The Regional Human Rights Programme Office for Southern Africa is a joint project of OHCHR and UNDP, which is aimed at mobilizing and coordinating increased United Nations system-wide assistance in the area of human rights, democracy and the rule of law. It is doing so through raising awareness of the OHCHR technical cooperation programme among Governments and other partners in southern Africa, by mainstreaming human rights into the development programmes of the United Nations country teams, and by strengthening subregional networks of institutions, NGOs, Parliaments and police. The Regional Programme Office covers the countries in the SADC/Indian Ocean Group of UNDP's Regional Bureau for Africa.

Togo

22. OHCHR-Togo is responsible for implementing technical cooperation activities based on the project agreed with the Government in 1996. The office's activities relate to the two areas of the administration of justice and human rights education. The project, with a total duration of three years, will come to an end in mid-1999.

Gaza

23. OHCHR-Gaza was established at the end of 1996 to implement the technical cooperation programme agreed by OHCHR with the Palestinian Authority. The office's role is to assist the Palestinian Authority and civil society in strengthening Palestinian institutional capacities in the area of the rule of law, based on a tripartite strategy incorporating the complementary elements of law, policy, and institutional structure. Accordingly, the programme focuses on the following three main areas: (a) establishing a legal framework consistent with human rights standards, through the provision of advisory services on legislative drafting and support to Palestinian institutions and organizations to conduct legal analysis work; (b) developing an official human rights policy, through assistance for the elaboration of a national plan of action on human rights; (c) strengthening of national structures whose role is crucial in protecting and promoting human rights, with special focus on the administration of justice (through advisory services and training for police, prisons officials, judges, prosecutors and lawyers), on the Palestinian Independent Commission on Citizens' Rights and on local non-governmental organizations.

Mongolia

24. OHCHR-Mongolia is implementing technical cooperation activities with the objective of fully integrating constitutional and international human rights standards into national practice. Since 1994, OHCHR's role has mainly been to support the judiciary through provision of human rights training, conduct general human rights documentation and education activities and support civil society. A new project was developed in 1998 based on the evaluation of activities previously conducted by OHCHR in cooperation with the Mongolian Government. The current project is initially foreseen to last for one year.

Guatemala

25. The office was established as part of a technical cooperation project signed by OHCHR and the Government of Guatemala in 1996. Its role is to assist the Government in strengthening the national capacity for the consolidation of the rule of law and democracy in the context of the peace process through the promotion and enjoyment of human rights for all. It has been implementing activities aimed at assisting the Office of the Human Rights Ombudsman, organizing training courses for civil society organizations, the Presidential Commission in charge of Human Rights and the National Civil Police.

El Salvador

26. The main role of the OHCHR Technical Cooperation Office in El Salvador, which was established in April 1997, has been to keep human rights on the national agenda after a long internal conflict which ended with the signature and implementation of peace agreements between the Government and the Frente Farabundo Martí de Liberación Nacional (FMLN).

27. The office is mandated to support the national initiatives for the establishment and strengthening of democratic institutions and the rule of law

with due respect for human rights. OHCHR is actively engaged in: (a) providing advisory services for the revision of domestic legislation vis-à-vis the international human rights norms; (b) providing advisory services for the incorporation of a human rights approach in development activities and policy design; (c) strengthening national institutions; (d) building and strengthening national capacities for the promotion and protection of human rights, including fact-finding, monitoring, reporting and raising awareness.

II. FIELD PRESENCE ADMINISTRATION

28. A concerted effort is under way to make the administration of our field presences professional, efficacious and responsive, as the following elements indicate (details can be found in the report of the Secretary-General on Advisory services and technical cooperation in the field of human rights (E/CN.4/1999/99)):

(a) Every new project is scrupulously reviewed by a Project Review Committee;

(b) A new Field Recruitment Committee advises on field appointments;

(c) An Advisory Panel on Personnel Issues has been established to carry out the functions of an appointments and promotions body for field personnel and to advise on issues such as rotation;

(d) A full-time Security Coordinator reviews the security situation and arrangements in the countries of field presences;

(e) Detailed work plans have been requested from each field presence based on a standard format;

(f) A code of conduct has been drawn up and distributed to all field personnel;

(g) To keep track of the needs of field operations/presences a task force meets weekly under the chairmanship of the Deputy High Commissioner;

(h) A system of weekend duty officers has been instituted to be responsive to emergencies in the field;

(i) A weekly meeting of officers servicing field operations/presences is now held to monitor needs, cross-fertilize and build up an internal doctrine;

(j) An urgent audit has been requested of every major field operation;

(k) A four-person evaluation mission visited Burundi. This follows an expert examination of the major field operations;

(l) Training programmes for field personnel are being planned.

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